THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No. 7183 OF 2016

O R D E R: ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

The petitioners herein have mounted a challenge to the *e*-auction sale notice issued on 04.02.2016 in accordance with Rule 8 of the Security Interest (Enforcement) Rules, 2002 by the 1st respondent bank.

In view of the order proposed to be passed by us now, we are not narrating all the facts in great detail except recording those which are essentially needed for disposal of this Writ Petition.

The petitioners herein, for their business purposes, availed financial assistance from the 1st respondent bank to the tune of Rs.19.5 lacs and they, as claimed, have already paid about Rs.8 lacs to the bank within three years. However, the respondent bank has initiated securitization measures. When they delivered the symbolic possession notice dated 04.02.2016, challenging the same, the present Writ Petition is instituted.

Sri Hari Prasad Podila, learned Standing Counsel for the 1st respondent bank would inform us that to realize the outstanding amount from the petitioners, the 1st respondent bank has proposed to liquidate the secured asset on 10.03.2016 by way of *e*-auction between 03.00 and 04.00 P.M.

Sri Narasimhulu Parise, learned counsel for the petitioners would urge that the petitioners are very anxious to clear and liquidate the entire liability towards the 1st respondent bank, provided they are accorded some reasonable time.

In that view of the matter, while we are not interested in interdicting the scheduled sale of the secured asset on 10.03.2016 between 03.00 and 04.00 P.M., but however, we direct the 1st respondent bank not to accept 75% of the bid amount from the best bidder(s) and instead, accept 25% of the bid amount and not to confirm the sale till 30.06.2016, subject to the following conditions:

1) The petitioners shall deposit a sum of not less than Rs. 5 lacs to the loan account on or before 29.03.2016.

2) For the balance amount, the petitioners must submit a representation to the respondent bank as to how they would like to regularize the same. If the bank is agreeable for the same, the further action may not be processed. On the other hand, if the bank seeks liquidation of the entire liability, a minimum of three monthly installments may be provided to the petitioners for liquidating the balance outstanding amount. Any default in paying Rs. 5 lacs on or before 29.03.2016 would permit the 1st respondent bank automatically to confirm the sale in favour of the best bidder and put him on notice to pay the balance 75% of the bid amount, receive it and then, execute a sale certificate in his favour and also deliver possession of the secured asset to him.

The above order has been passed notwithstanding the fact that the petitioners herein answer the description of 'borrower', 'default' committed by them and 'secured asset' created by them as defined in clauses (f), (j) and (zc) of sub-section (1) of Section 2 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the 1st respondent bank answers the description of 'bank' as defined in Section 2(1)(c) of the Act and that it is entitled under Section 13 of the said Act to take securitization measures.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

04th March 2016

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