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

WRIT PETITION No. 11082 OF 2009

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

This Writ Petition is preferred by the A.P. Mahesh Cooperative Urban Bank Limited, Hyderabad Branch, aggrieved by the docket order passed by the Debts Recovery Tribunal, Hyderabad on 02.06.2009 in I.A.No. 148 of 2009 in S.A.No. 200 of 2008.

The 2nd respondent herein moved I.A.No. 148 of 2009 before the said Tribunal seeking a direction to the writ petitioner/respondent to hand over and deliver physical possession of the petition schedule property. Unfortunately for the petitioner herein, there was no representation made on its behalf when the Interlocutory Application No. 148 of 2009 was taken up for consideration by the said Tribunal. The Tribunal therefore, went through the contents of the Petition which disclosed that the 2nd respondent herein, the petitioner in I.A. No. 148 of 2009, is a Rural Medical Practitioner (RM) and he is having meager income and that if the schedule property premises is allowed to be retained in possession of him, he will get some monthly rentals and that he would be paying monthly installments to the writ petitioner/ respondent out of the said rental amount. Since those averments have not been challenged by filing a counter-affidavit, I.A.No. 148 of 2009 was allowed by the said Tribunal directing the writ petitioner herein to re-deliver the petition schedule property to the 2nd respondent within seven days from the date of the said order. On 08.06.2009, entertaining this Writ Petition, a Division Bench of this Court granted interim suspension of the said order. Consequently, that order was not given effect to or acted upon by the writ petitioner bank.

We are at a loss to understand the reasoning of the Tribunal in allowing I.A.No. 148 of 2009 that was moved by the 2nd respondent herein, no doubt urging that he will have to face some hardship if the writ petitioner bank were to take possession of the asset and from out of the rentals, which he can generate there from, by leasing it out, he will be able to liquidate the liability. That is hardly a valid or justifiable ground for the Tribunal to direct the writ petitioner bank to re-deliver possession of an asset over which interest was created in its favour by the 2nd respondent himself. By virtue of the default committed by him in liquidating this liability, the bank has proceeded against him. Therefore, there is hardly any justifiable reason assigned by the Tribunal for directing the writ petitioner bank to re-deliver possession of the petition schedule property for the purpose of enabling the petitioner in I.A.No. 148 of 2009 to lease it out and then derive some benefit out of it and again part with a part thereof towards his liability to the writ petitioner bank. Unfortunately for us, there is no representation on behalf of the 2nd respondent when the matter was taken up by us on 14.03.2016 and in spite of the Registry printing the name of the 2nd respondent today in the cause list also, there is no representation on his behalf.

In this view of the matter, we have proceeded to hear Sri Vedula Srinivas, learned counsel for the writ petitioner bank.

Reasons are the live-links every quasi-judicial and judicial authority, which has been entrusted with the task of determining a *lis,* has to assign. In the least, the reasons will indicate the lines on which the mind of the decision-making authority has been applied and at best, they also disclose quite transparently as to what material has weighed with the decision-making authority to come to the conclusion to which it has. Sans reasons, a decision taken by the decision-making authority would become a pedantic and laconic order. In that view of the matter, for want of reasons in allowing an Application moved seeking re-delivery of the property, we are of the opinion that the Debts Recovery Tribunal is certainly not justified in allowing the said Application.

Hence, we allow this Writ Petition and set aside the order passed on 02.06.2009 in I.A.No. 148 of 2009 and restore the said I.A. to file, to be considered in accordance with law strictly by the Debts Recovery Tribunal. However, it is also advisable for the Debts Recovery Tribunal to take up Securitization Appeal No. 200 of 2008 as early as is possible, at any rate within a maximum period of three months from the date of receipt of a copy of this order and decide it on merits. No costs.

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

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

21st March 2016

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