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

WRIT PETITION No. 12278 OF 2016

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

The 2nd petitioner herein appears to have availed certain financial assistance from the respondent State Bank of Hyderabad, Yemmiganur Branch. Her husband, the 1st petitioner herein, appears to have offered surety for the loan transaction. However, from March 2015, the 2nd petitioner has committed default in repaying the loan amount. Hence, the respondent bank has taken measures for securitization of the loan, which has been declared as a *'non-performing asset'*. Though notice under sub-section (2) of Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has been issued on 06.01.2016 demanding liquidation of the entire outstanding liability of Rs.7,61,683/- as on 01.01.2016 together with interest due and payable thereafter, the petitioners have not responded to the said demand notice. Consequently, possession notice has been delivered in terms of and in accordance with sub-section (4) of Section 13 of the SARFAESI Act read with Rule 8(6) of the Security Interest (Enforcement) Rules, 2002. It is this notice, which brought-forth the above Writ Petition.

Heard learned counsel for the petitioners and Sri A. Krishnam Raju, learned Standing Counsel, who has accepted notice on behalf of the respondent bank.

Learned counsel for the petitioners would submit that because of certain serious health issues, the 2nd petitioner herein has committed default in making the monthly installments of Rs.13,000/- from March 2015. If some little time is granted, the petitioners are, in fact, anxious to pay up the defaulted installments and then, submit a representation to the respondents to regularize the loan account.

We consider that accepting the request made by the learned counsel for the petitioners would, in no manner, diminish the interests of justice.

Hence, we direct the petitioners to deposit a sum of not less than Rs.1,75,000/- on or before 16.05.2016 with the 2nd respondent bank. The petitioners shall also submit a detailed representation that they will faithfully remit the monthly installments thereafter without committing any default. If these two conditions are complied with, the respondent bank may accept the money deposited and treat the same as payment of the defaulted monthly installments in one lump sum and then, permit the petitioners to liquidate the rest of the liability by re-scheduling the loan amount by making payment each month of specified sum. In case the petitioners commit any default in complying with this order, it shall be open to the respondents to act in accordance with law and liquidate the secured asset, as the petitioners herein fall within the definition of the expression *'borrower'* as defined in Section 2(1)(f) of the Act and the respondent bank answers the description of *'bank'* as defined in Section 2(1)(c) of the Act and Section 13 authorizes and enables the bank to securitize the loan account.

The Writ Petition with this order 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

13th April 2016

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