THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.10349 OF 2016

ORDER: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

This writ petition can be disposed of, in view of the statement made by Sri K. Chidambaram, learned counsel for the petitioner, after making several submissions for reconsideration.

The petitioner has availed certain financial assistance with the first respondent for carrying on business in poultry, but however, the loan amount has not been recycled properly resultantly, making the account a non-performing asset. The first respondent-bank which answers the description of 'Bank', as per Section 2(1)(c) of The Securitisation And Reconstruction Of Financial Assests And Enforcement Of Security Interest Act, 2002, it being a banking company, has taken measures for securitisation of its loan under Section 13. When it has drawn a demand notice under Subsection (2) of Section 13, demanding the entire outstanding liability, the petitioner has sent up a legal notice on 19.11.2013 to the Regional Manager of the Bank, calling upon the bank to cancel and recall the notice issued, but however, the fact remains that an amount of Rs.1,12,50,320/- was found to be due and outstanding as on 01.09.2013 + unpaid interest thereon.

Since, the petitioner who has availed financial assistance and created a security interest over the immovable property, there is no escape except to uphold the action of the first respondent bank in taking measures for securitization, as provided for under Section 13 of the Act. The action of the Bank is in accord with the principles of law and hence, it cannot be interdicted. However, the request made by Sri

K. Chidambaram on behalf of the petitioner is that, the property is more than worth Rs.2.5 crores and if it is sold for a distress value, the petitioner-borrowers would suffer a grave hardship and hence, if a reasonable time of four months is granted to him, he would liquidate the entire liability.

More with a view to balance the interests of the borrower as well as the first respondent Bank, while we leave it open to the first respondent bank to proceed further with the threatened sale of the security interest, but however, we direct the bank not to confirm the said sale up to 02.08.2016, subject to the following conditions:

1. The petitioner shall deposit a sum of not less than Rs.25,00,000/-(Rupees Twenty Five Lakhs) in one or more than one instalment with the respondents on or before 30.04.2016.

2. Thereafter, he should deposit a sum of not less than 1/3rd of the balance outstanding liability together with the securitisation expenses incurred by the bank and also any amount which might possibly be paid to the auction purchaser towards interests for the monies deposited by it/him before the end of May, 2016 and the second instalment of 1/3rd amount before the end of June, 2016 and the last and final instalment, completely liquidating the liability latest by 31.07.2016.

3. Any default or failure to comply with this schedule of repayment, as ordered now, would leave liberty to the respondents to proceed further in the matter without any further reference to this Court and confirm the sale, duly accepting 75% of the amount from the best bidder and then, executing sale certificate, register it and deliver vacant possession of the

property, but not otherwise.

The Writ petition stands disposed of.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

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JUSTICE NOOTY RAMAMOHANA RAO

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DR. JUSTICE B. SIVA SANKARA RAO

30.03.2016
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note: cc in 3 days
b/o
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