THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

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

WRIT PETITION No.6715 of 2016

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

Heard Sri C.H.Shiva Reddy, learned counsel for the petitioners and Smt. V.Dyumani, who has accepted notice on behalf of the

1st respondent/Bank and with their consent, this writ petition is disposed of.

The 1st petitioner has availed certain financial assistance from the 1st respondent/Bank and thereafter, committed default in repayment of the loan amount. As of 18.06.2015, a sum of Rs.1,15,36,793/- + interest @ 13.45% from 18.06.2015 was found due and payable. The loan account has been declared as Non Performing Asset and thereafter, the measures for securitization as contemplated and provided for under Section 13 read with Section 14 have been initiated under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). That triggered a spate of litigation. To cut the long story short, as rightly pointed by Smt. V.Dyumani, the Debts Recovery Tribunal, Hyderabad passed an order on 11.09.2015 in S.A.No.420 of 2015 which has remained unimplemented fully by the petitioners. This order, according to learned counsel for the

1st respondent/Bank, has also attained finality.

While we agree that there was a further default committed by the petitioners herein in spite of the order passed by the DRT on 11.09.2015, but however, we find that the petitioners herein have paid a sum of Rs.6,01,000/- on 17.10.2015 and Rs.6,10,000/- on 10.11.2015. Even thereafter the outstanding liability was standing at Rs.71.05 lakhs. Thus, the interest of the Bank is not taken into account and consideration or addressed by the petitioners herein and hence, no exception need be drawn to the action of the respondent/Bank in taking securitization measures.

Though the petitioners answer the description of 'borrower' and also committed default, but the anxiety shown to liquidate the liability and make the account fall in line, cannot be missed out. If the petitioners have deposited a sum of more than Rs.12.00 lakhs in October and November, 2015, we must permit the petitioners to exhibit their *bona fides* once again.

Hence, the writ petition stands disposed of with a direction to the petitioners herein to liquidate the entire overdue amount in 2 monthly installments, first of which should occur before 30.03.2016 and the 2nd installment shall be accomplished not later than 30.04.2016, the outstanding overdue liability shall also be cleared by 50% by 30.03.2016 and the balance by the end of April, 2016 together with incidental expenses incurred by the 1st respondent/Bank for undertaking securitization measures.

The petitioners shall also undertake to pay Equated Monthly Installments for the balance outstanding liability by tendering payment latest by 15th of every succeeding month. If any default is committed in making those payments for any two consecutive months, the 1st respondent/Bank would be at perfect liberty to proceed further in the matter and take necessary steps under Sub Section 4 of Section 13 of the Act.

In case the petitioners comply with the directions issued herein above and make their loan account fall in line, no further action shall be taken by the 1st respondent/Bank. Subject to the above terms, the sale be deferred till 02.05.2016 and only in the event of default committed in complying with the order, further steps may be taken thereafter, without any further reference to this Court.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE Dr. B.SIVA SANKARA RAO

03.03.2016

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