THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.17855 of 2016

12.09.2016

Between:

M/s.Taruni Dairy Products Pvt. Limited, Hyderabad

..Petitioner

And

The Authorised Officer, Indian Bank, Chittoor and another

..Respondents

Counsel for the petitioner: Mr.G.Srikanth, for Mr.Ch.Siva Reddy

Counsel for the respondents: Mr.Ambadipudi Satyanarayana

The Court made the following:

<u>ORDER</u>: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for a *mandamus* to declare the measures taken by the respondent bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, including the possession notice, dated 06.05.2016, and the notice of intended sale including e-auction, dated 21.05.2016, fixing the date of sale as '24.06.2016' as illegal and arbitrary.

2. On 22.06.2016, this Court, while adjourning the writ petition, passed the following order in W.P.M.P.No.21953 of 2016:

> "Perusal of the Possession Notice dated 06.05.2016 reflects that no inventory of the secured movable assets was taken in terms of Rule 4 of the Security Interest (Enforcement) Rules, 2002. That being so, we direct the respondent bank not to put the secured movable assets to sale pursuant to the e-auction notice dated 21.05.2016.
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> Sri Ch.Siva Reddy, learned counsel for the petitioner company, states that his client is a running unit and that the respondent bank is seeking to put the same to sale pursuant to the impugned auction notice which would have a dire impact on several employees who are presently eking out their livelihood in the service of the petitioner company.
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> Sri Ambadipudi Satyanarayana, learned counsel appearing for the respondent bank, states on instructions that in the event the petitioner company clears its outstanding over dues, the bank is willing to regularize its loan account and that it is not interested in closing down a running unit by taking recourse to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
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> In that view of the matter, we permit the respondent bank to proceed with the auction sale proposed to be held on 24.06.2016 in respect of secured immovable assets, pursuant to the e-auction sale notice dated 21.05.2016. However, the sale, if

> any, shall not be confirmed and the respondent bank shall not collect more than 25% of the bid amount. This order shall be subject to the petitioner company clearing its outstanding over dues of Rs.1,15,50,000/- in entirety before the expiry of one month i.e. on or before 24.07.2016."

3. Today, at the hearing, Mr.Ambadipudi Satyanarayana, learned standing counsel for the Indian Bank appearing for the respondents, has submitted that the petitioner failed to comply with the aforementioned conditional interim order. He has further submitted that as his clients failed to secure bidders, the auction did not take place and that they are taking steps to conduct auction afresh. Mr.G.Srikanth, learned counsel representing Mr.Ch.Siva Reddy, learned counsel for the petitioner, did not dispute the above submissions of the learned standing counsel.

4. In the light of the fact that the proposed auction impugned in this writ petition did not materialize, the cause in the writ petition does not survive for adjudication.

5. Accordingly, the Writ Petition is dismissed as infructuous.

6. As a sequel to dismissal of the writ petition, interim order, dated 22.06.2016, in W.P.M.P.No.21953 of 2016 is vacated and W.P.M.P.No.21953 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

12th September, 2016
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