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

WRIT PETITION No.3784 OF 2016

ORDER: (Per NRR,J)

This Writ Petition is preferred challenging the action of the respondent Nos. 1 and 2 in delivering the possession notice in terms of Rule 8 of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules, 2002') on 13.01.2016.

2. The 3rd respondent herein is stated to be a partnership firm. The petitioner herein along with the 3rd and 4th respondents has availed financial assistance with the Vijay Bank at Hardikar Bagh branch, Himayathnagar. It appears there was default in repayment of the loan amount. The case of the petitioner herein is that the Managing partner of the 3rd respondent firm has vanished no sooner the loan facilities have been availed exposing the petitioner herein to grave risk. In spite of the same, according to the learned counsel for the petitioner, he has cleared the loan amount to an extent of Rs.48,00,000/- (Rupees forty eight lakhs only) but however, the bank has declared the loan account as a non-performing asset and consequently preferred to adopt the measures provided under Section 13 of the Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act'), by issuing a demand notice under Sub Section 2 of Section 13 of the Act on 07.10.2015 calling upon the borrowers to liquidate outstanding liability of more than Rs.1.01 crores. Since the said notice has not produced the desired result and the loan amount remained unliquidated even after expiry of 60 days time limit provided under Sub Section 2 of Section 13 of the Act, the bank has proceeded further and initiated measures under Sub Section 4 of Section 13 of the Act on

13.01.2016. Hence, with a view to caution the borrowers and also the general public not to deal with the security interest/asset, the notice of taking over possession of the security interest/asset was drawn in terms of Rule 8 of the Rules 2002. It is this notice dated 13.01.2016 which is challenged herein.

3. Heard the learned counsel for the petitioner Sri P.Venkateshwarlu.

4. When once the loan account has been declared as non-performing asset, it is for the secured creditor bank to take necessary steps under Section 13 of the Act for realization of the outstanding liability. Under Sub Section 2 of Section 13 of the Act, a notice is required to be delivered pointing out the outstanding liability to be cleared by the borrowers and also provide them a minimum of 60 days time for liquidating the said liability. In the instant case, a notice under Sub Section 2 of the Section 13 of the Act was drawn on 07.10.2015 demanding the borrowers to liquidate the outstanding liability of more than Rs.1.01crores
(Rupees one crore and one lakh only). Finding that the said loan amount has not been liquidated as demanded, the bank has proceeded further and taken possession of the asset. Now the security interest/asset is liable to be put to sale. In case, the petitioner deposits a minimum of Rs.20,00,000/-(Rupees twenty lakhs only) on or before 18.04.2016 and also furnishes a scheme for liquidating the balance amount in quick time thereafter, the bank may consider not to confirm the sale in favour of 3rd parties. If the petitioner commits any default in living upto the obligation of payment of minimum of Rs.20,00,000/-(Rupees twenty lakhs only) and also convincing explanation to liquidate the balance amount within a further quick time of three months thereafter, the respondent bank would be at liberty to finalize the same and appropriate the sale proceeds to the loan account.

5. In the result, the Writ Petition is disposed of at the admission stage.

6. Consequently, miscellaneous Petitions, pending if any, shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

Dr.B.SIVA SANKARA RAO, J

Date: 18.02.2016.
VVR