

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.38338 of 2015

Date:14.9.2016

Between:

M/s Sravanthi Cold Storage Private
Limited, Guntur, repled by its Managing
Director-D.Linga Murthy

..... Petitioner

And:

The Authorized Officer/General Manager-
UCO Bank, Guntur and another.

....Respondents

Counsel for the petitioner: Mr. V.S.R.Ravinutala

Counsel for the respondents: Mr. Seshagiri Rao

For Mr. N.V.Subba Raju

The Court made the following:

ORDER: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Writ Petition, which is an obvious after thought, sought to rake up a settled dispute.

The petitioner failed to repay the loan amounts, as a result of which, the respondents have initiated recovery proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'). Assailing the same, the petitioner, in all, filed as many as six Writ Petitions relating to six different accounts, which include Writ Petition No.24456 of 2013. The said Writ Petition was disposed of by order, dated 27.8.2013. The relevant portion of the said order is reproduced herein below:

"It is submitted that as per the submissions made by the respondent bank the petitioners has to pay a sum of Rs.4,00,00,000/- (Rupees Four Crores Only) to regularize the account. It is submitted that the petitioners herein are ready and willing and undertake to pay the said sum of Rs.4,00,00,000/- (Rupees Four Crores Only) to regularize the accounts with the respondent bank as follows:

- i. Rs.1,00,00,000/- (Rupees One Crore Only) within one week from today out of which a sum of Rs.64,73,000/- (Rupees Sixty Four Lacs and Seventy Three Thousand Only) is paid today by way of pay orders details of which are mentioned hereunder;
- ii. Balance of Rs.3,00,00,000/- (Rupees Three Crores Only) by way of three (3) monthly installments @ Rs.1,00,00,000/- (Rupees One

Crore Only) on or before 5th of every month from October, 2013 onwards.”

The petitioner failed to repay the amounts as undertaken by it in the afore-mentioned batch of Writ Petitions and filed a fresh batch of Writ Petitions, viz., Writ Petition Nos.8561, 18027 and 18029 of 2014. The said Writ Petitions were dismissed by this Court by order, dated 12.9.2014, in view of the order, dated 27.8.2013, in Writ Petition No.24456 of 2013 and batch.

Mr. Seshagiri Rao, learned counsel representing Mr. N.V.Subba Raju, learned counsel for the respondents, submitted that consequent on the petitioner's failure to pay the amounts as undertaken by it in Writ Petition No.24456 of 2013 and batch, the bank has put the secured properties of the petitioner to auction; that at that stage, the petitioner has paid the amounts as per its undertaking; and that as on today, the account has been closed.

Having thus allowed the dispute laid to rest, the petitioner has filed this Writ Petition for reopening the same in the name of enforcement of Circular No.HO/RCR/04/2013-14, dated 11.12.2013, issued by the Head Office of the UCO Bank and sought for the relief of returning the purported excess amounts paid by it.

It is the pleaded case of the petitioner that the said Circular envisaged charging of basic rate of interest (simple), where the Net Present Value (NPV) of the securities is more than the total dues.

In our opinion, having failed to rely upon the said Circular at appropriate stage and instead, having agreed to pay the dues without reference to the said Circular, and, paid the amounts *albeit* belatedly, it is not permissible for the petitioner to fall back on the afore-mentioned Circular after entire payment was made and the loan account was closed. The petitioner cannot be permitted to unsettle the settled dispute.

For the afore-mentioned reasons, we perceive this Writ Petition as a piece of vexatious litigation and accordingly, dismiss the same.

As a sequel to dismissal of the Writ Petition, WPMP.No.49343 of 2015 filed by the petitioner for interim relief is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

14th September 2016
DR