

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.24449 of 2016

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Date: 25.07.2016

Between:

Borusu Satya Venkata Srinivas

..Petitioner

and

The Bank of Baroda
Hukumpeta Branch, Rajahmundry
E.G.District
rep. by its Branch Manager and 3 others

..Respondents

Counsel for the petitioner: Mr.YV.Ravi Prasad
for Mr.P.Durga Prasad

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for a Mandamus to declare Notice, dated 08-06-2016, of respondent No.1 whereunder E-Auction was proposed to be held on 11-07-2016, as illegal and arbitrary. The petitioner also sought for a consequential direction to set aside the auction held on 11-07-2016.

We have heard Mr.Y.V.Ravi Prasad, learned Senior Counsel appearing for Mr.P.Durga Prasad, learned Counsel for the petitioner.

The petitioner is a guarantor in respect of the loan borrowed by respondent Nos.3 and 4 from respondent No.1- Bank. The petitioner has approached the Debt Recovery Tribunal, Visakhapatnam, under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'), against the measures taken under Section 13 (4) thereof. The appeal was returned to the petitioner for presentation before the proper forum having territorial jurisdiction on 27-06-2016. In the meantime, resale notice was issued to the petitioner on 06.06.2016 giving him 30 days time for repayment of the loan amount. Within two days thereafter, respondent No.2 has issued E-Auction Notice on 08-06-2016. In this background, the petitioner has filed this Writ Petition.

At the hearing, the learned Senior Counsel argued that while, in normal course, his client ought to have sought for appropriate relief from the Debt

Recovery Tribunal, Hyderabad, since the regular Presiding Officer has not been functioning, he is constrained to file the present Writ Petition.

Smt.Bala, learned Counsel for respondent Nos.1 and 2, submitted that the E-Auction has already been held and that the highest bidder has offered a sum of Rs.87 lakhs.

Having regard to the fact that the petitioner has already presented an appeal before the Debt Recovery Tribunal, Visakhapatnam, and has taken back the same for presentation in the proper Court, it is appropriate for him to pursue the said remedy. However, considering the fact that there is no regular Presiding Officer at the Debt Recovery Tribunal, Hyderabad, which is stated to be the jurisdictional Tribunal, we find that the interests of justice would be met, if some interim arrangement is made to protect the interests of both parties till such time as the petitioner represents the securitization appeal before the Debt Recovery Tribunal, Hyderabad, and seek appropriate interim order. Accordingly, respondent Nos.1 and 2 are restrained from taking further steps such as sale confirmation and issue of Sale Certificate in pursuance of the E-Auction for a period

of two months subject to the petitioner depositing to the credit of respondent No.1, a sum of Rs.50 lakhs within four weeks from today. The deposit that may be made by the petitioner shall be subject to the orders to be passed in the appeal that may be presented by him before the Debt Recovery Tribunal, Hyderabad.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.30144 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 25th July, 2016
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