

THE HON'BLE SRI JUSTICE R.KANTHA RAO
AND
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.13773 of 2016

ORDER: (per the Hon'ble Dr. Justice B.Siva Sankara Rao)

The petitioner is the borrower within the meaning of Section 2(1)(f) Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') and having availed the financial assistance from the 2nd respondent, the secured creditor, and for the defaults committed in payment of the amounts, the account is classified as non-performing asset as defined under Section 2(o) of the Act. The Bank after exhausting the remedies by issuing demand notice and possession notice, issued a notice for conducting e-auction fixing a date on 22.04.2016. Though several of the contentions raised by the learned counsel for the petitioner, ultimately it is his submission that if reasonable opportunity being afforded to liquidate the entire debt, the petitioner-borrower is going to liquidate the entire debt to protect the secured interest from being sold by e-auction.

2) Having regard to above, the writ petition itself can be disposed of, instead of keeping it pending, before admission and by ordering notice to the 2nd respondent-Bank/secured creditor by directing the Bank while taking security measures and conducting the e-auction as scheduled on 22.04.2016 but for collecting 25% of the bid amount from the auction purchaser not to collect the remaining 75% of the bid amount and not to confirm the sale and not to issue sale certificate for a period of 12 weeks from today subject to the condition of the petitioner's payment or deposit Rs.15,00,000/- by 31.05.2016 and another Rs.15,00,000/- by 30.06.2016 and the balance amount due with subsequent interest, costs and expenses incurred for securitization measures undertaken by the secured creditor by total liquidation of the secured debt on or before 21.07.2016. If the

petitioner failed to pay as stated supra or even failed to pay the 1st instalment, the bank is at liberty to proceed further by collecting remaining 75% of the bid amount and confirm the e-auction and issue sale certificate in favour of the highest bidder without any further reference to the Court.

3) With the above observations, the writ petition is disposed of. Consequently, miscellaneous petitions in the writ petition pending, if any, shall stand closed.

R.KANTHA RAO, J

Dr.B.SIVA SANKARA RAO, J

21-04-2016

N.B: Issue C.C. by tomorrow
(B/o) Ksh