

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

Writ Petition No.13508 of 2016

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

The petitioner/borrower, as defined under Section 2(f) of the SARFAESI Act, 2002 (for short 'the Act'), availed financial assistance from the respondent-bank/secured creditor and for the default committed in liquidation of the loan, the bank has taken securitization measures and pursuant to which, there was a demand notice with 60 days time to liquidate the debt, which was undisputedly received twice on 10.07.2015 and 15.11.2015 and for the failure to pay, the bank proceeded further under the provisions of the Act against the security interest, as defined under Section 2(1)(z-f) of the Act, and the bank pursuant to Section 13(4) notice, taken possession and issued sale notice, as contemplated by Rule 8(6) read with Rule 9(1) of S.I. (E) Rules, 2002. The date of auction is fixed to conduct on 22.04.2016 at 11.30 a.m. Impugning the same, the present writ petition is filed.

2. Though some of the contentions raised by the learned counsel for the petitioner/borrower, regarding the alleged lapses, ultimately he could concede the same saying he is anxiously interested in liquidating the debt, subject to giving of some time in order to protect his security interest which right to liquidate he got till auction and transfer of title over the property by issuing sale certificate in favour of the highest bidder as per the provisions of Section 13(8) of the Act and Section 60 of the Transfer of Property Act.

3. Having regard to the above and in the result, the writ petition is disposed of by giving three months time to liquidate the entire debt in the following manner:

1. The writ petitioner/borrower shall pay a minimum

of Rs.15.00 lakhs (Rupees fifteen lakhs only) on or before 31.05.2016 and to pay another installment by the end of June, 2016 with a minimum of another Rs.15.00 lakhs (Rupees fifteen lakhs only) and liquidate the entire balance out of Rs.32, 76,961.67 ps. covered by the sale notice as on 19.03.2016 or such other amount of the debt as per the notice with subsequent interest and all incidental costs and expenses incurred for the securitization measures taken by the bank.

2. It is made clear that the auction as stipulated on 22.04.2016 at 11.30 a.m. shall go on and 25% of the bid amount can be collected from the auction-purchaser, however, remaining 75% of the bid amount cannot be collected and sale certificate shall not be issued by confirming the same by the bank in the meantime.

3. If the writ petitioner/borrower failed to adhere to the installment and any failure to pay even of the first installment on or before 31.05.2016, the bank is at liberty to proceed further pursuant to the auction being conducted on 22.04.2016 at 11.30 a.m. without reference to the court for any further orders.

There is no order as to costs. Miscellaneous petitions pending if any, in this writ petition, shall closed.

R.KANTHA RAO, J

DR. B. SIVA SANKARA RAO, J

Date: 21.04.2016
BSS

HON'BLE SRI JUSTICE R.KANTHA RAO
AND
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