THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION NO.19098 OF 2016

O R D E R

(per Hon'ble Sri Justice Sanjay Kumar)

Heard Sri K.S.Naumene, learned counsel for the petitioner company, and Sri Ambadipudi Satyanarayana, learned counsel for the respondent bank.

The prayer of the petitioner company in this case is as under:

> 'That this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent bank in publishing the sale notice dt.20.05.2016 by which the respondent bank fixed a date of auction for enforcing the securities on 24.06.2016 while the one time settlement proposal is pending and the Securitization Appeal including interlocutory applications are pending before the Debts Recovery Tribunal, Visakhapatnam due to the non-availability of Presiding Officer in the said Hon'ble Tribunal as illegal, arbitrary, unjust, malafide, against the Constitutional guarantees and principles of natural justice and to consequently direct the respondent bank to process the one time settlement proposal made by the petitioner before attempting to enforce the securities and to consider the said one time proposal, sent by the petitioner company taking into consideration of the difficulties faced by the Ferro Alloy industries more particularly when 40 other industries in the same locality were shut-down due to failure of the Government to supply power to the power intensive industry and to pass such other and further order or orders as deemed fit and proper in the circumstances of the case.'

Despite arguing for some length of time, Sri K.S.Naumene, learned counsel, is unable to demonstrate any procedural irregularity on the part of the respondent bank warranting interference with the proposed sale to be held on 24.06.2016 pursuant to the impugned sale notice dated 20.05.2016. The learned counsel would however state that his client is anxious to clear the outstanding dues of the respondent bank and if a reasonable opportunity is given to it to do so, it would prove its *bonafides.*

As Section 13(8) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 enables the borrower to redeem the mortgage prior to the date of sale or transfer and as the petitioner now states that it is willing to clear its entire outstanding dues, we are inclined to grant some time to the petitioner in this regard.

The writ petition is therefore disposed of permitting the respondent bank to proceed with the sale proposed to be held on 24.06.2016 pursuant to the impugned sale notice dated 20.05.2016. However, the sale, if any, shall not be confirmed and the respondent bank shall not receive more than 25% of the bid amount till 31.07.2016. In the meanwhile, the petitioner company shall clear its entire outstanding dues to the respondent bank, be it in lump sum or by way of instalments. In the event the petitioner company fails to do so, the respondent bank would be at liberty to proceed further in the matter in accordance with law. We make it clear that no further extension of time would be granted to comply with the aforestated condition and that in the event the petitioner company fails to comply therewith, the respondent bank would be at liberty to proceed in the matter without further reference to this Court.

Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

DR. B.SIVA SANKARA RAO, J

22nd JUNE, 2016
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