

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No. 5905 OF 2016

ORDER : *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

Though this Writ Petition is instituted challenging the notice served by the respondent bank under sub-section (2) of Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), after generating certain amount of debate at the Bar, Sri V. Ch. Naidu, learned counsel for the petitioner, realizing that the legal position is presently loaded against the petitioner, would urge before us that because of the difficulties faced by the writ petitioner, if certain time is provided, he would be liquidating the entire liability arising out of the loan account maintained with the respondent bank.

The expression 'bank' has been defined in Section 2(1)(c) of the SARFAESI Act. There is no difficulty for us to hold that the respondent bank answers the said description of 'bank' and the secured asset created by the petitioner herein is liable to be proceeded against under Sections 13 and 14 of the SARFAESI Act. But however, if the petitioner is anxious to liquidate the entire liability including the incidental expenses incurred by the respondent bank for undertaking the securitization measures, we feel that ends of justice would be better served in that process.

Hence, subject to the condition of the petitioner depositing 50% of the outstanding liability on or before 30.03.2016 and thereafter clearing the balance 50% of the outstanding liability before 30.04.2016 together with the incidental expenses for securitization of the secured asset, the respondent bank may not take any further action in the matter. Any default committed by the petitioner either in making a deposit of 50% of the liability by 30.03.2016 or the subsequent deposit from being made on or before 30.04.2016, the respondent bank would be at full liberty to proceed further in the matter and take all such

actions, as are considered necessary by it for securitization of the secured asset without any reference to this Court.

The Writ Petition therefore, stands disposed of after hearing Ms. Dyumani, learned Standing Counsel for the respondent bank. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

26th February 2016

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