

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

The Hon'ble Sri Justice A.V.Sesha Sai

Writ Petition No.25526 of 2016

Date: 01.08.2016

Between:

M.Venkateswara Rao and another

..Petitioners

and

The Union of India
rep. by its Secretary
Finance Dept.,
Ministry of Home Affairs,
New Delhi and 7 others

..Respondents

Counsel for the petitioners: Mr.VV.Anil Kumar

Counsel for respondent No.4: Mrs.V.Dyumani

The Court made the following:

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

This Writ Petition is filed by the Principal borrowers in a loan transaction with respondent No.4 with the grievance that despite Order, dated 26-05-2016, passed by the Debt Recovery Tribunal,

Hyderabad (for short 'the Tribunal'), granting stay of confirmation of sale subject to the petitioners depositing Rs.40 lakhs within a period of four weeks and due compliance of the said condition by them, respondent No.3 has confirmed the sale in favour of respondent Nos.5 and 6.

In the manner we propose to dispose of the Writ Petition, we feel it unnecessary to put respondent Nos.5 and 6, who are the purchasers and in whose favour sale was confirmed, on notice.

From the facts pleaded by the petitioner, which do not appear to be in dispute, out of the sum of Rs.40 lakhs directed to be paid by the petitioners, a sum of Rs.24 lakhs was paid by them on 22-06-2016 itself; that in respect of the balance sum of Rs.16 lakhs, a cheque was issued by them on 23-06-2016, which was not cleared by the Bank concerned; and that on coming to know about the said fact, the petitioners have sent the said sum through RTGS on 27-06-2016 *i.e.*, a day after expiry of the four weeks' time stipulated by the Tribunal, but respondent No.3 has confirmed the sale in favour of respondent Nos.5 and 6 on 12.07.2016.

Since the proceedings before the Tribunal are pending, it is not appropriate for us to make any observations on the conduct of respondent No.3 or the legality or otherwise of the confirmation of sale. We are, however, constrained to observe that *prima facie* respondent No.3 ought to have approached the Tribunal and obtained its permission for confirmation of sale in view of the fact that respondent No.4 has received the entire sum of Rs.40 lakhs though a few days after expiry of the time stipulated by the Tribunal. However, since the proceedings are pending before the Tribunal, the petitioners are relegated to the same. As the regular Presiding Officer of the Debt Recovery Tribunal at Hyderabad, is presently not available, in order to enable the petitioners to secure appropriate order from the Tribunal, we deem it appropriate to protect their interests in the interregnum. Accordingly, respondent Nos.3 and 4 are restrained from proceeding further in pursuance of confirmation of sale for a period of one month from today. The petitioners are permitted to approach the Tribunal and seek appropriate relief therefrom. Till then, the

sale certificate shall not be registered by respondent No.7 and the petitioners shall not be dispossessed from the subject properties.

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

As a sequel to disposal of the Writ Petition, WPMP.No.31525 of 2016, filed by the petitioners for interim relief, is disposed of.

(C.V.Nagarjuna Reddy, J)

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(A.V.Sesha Sai, J)

Dt: 1st August, 2016
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