

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHAN RAO

AND

THE HON'BLE DR JUSTICE B.SIVA SANKARA RAO

WRIT PETITION NO.39990 OF 2015

ORDER: {Per the Hon'ble Sri Justice Nooty Ramamohan Rao}

The writ petitioner has challenged the validity of the sale notice dated 12.10.2015 issued by the first respondent-Bank herein contending that it is illegal.

It appears, the second respondent, a partnership firm, has availed certain financial assistance from the first respondent-State Bank of Hyderabad, but, however, committed default in liquidating the liability. As a consequence thereof, the first respondent has declared the loan account as a non-performing asset and initiated measures for securitisation as provided for under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) by issuing a demand notice on 29.04.2015 under sub-Section (2) of Section 13 of the SARFAESI Act. Since the demand notice has not produced the desired result, the follow up measures contemplated by sub-Section 4 of Section 13 read with Section 14 of the SARFAESI Act have been initiated. The sale notice was published on 12.10.2015 putting to sale certain properties over which security interest has been created in favour of the first respondent-Bank. Of all those several properties, which have been put to sale, one such commercial-cum-residential building bearing door No.18-88 in Survey No.522/3 near Head Post Office (Old) Nandigama, Krishna District, stands in the name of the writ petitioner herein. We are informed by the learned counsel for the first respondent-Bank that in the auction, it has fetched the best offer of Rs.32,80,000/-. The petitioner, though raised several contentions calling in question the validity of the notice, but however, learned counsel for the petitioner Sri D.Raghavulu, upon receiving instructions

in the matter, would submit that the petitioner herein is anxious and ready to pay up the amount, which has been offered by a third party for purchasing the property belonging to the petitioner, so that she can save the same. It is also now brought to our notice that pursuant to the interim order passed by this Court on 09.12.2015, the petitioner has already deposited Rs.16,00,000/- with the first respondent-Bank and the bank has yet to bring it to the credit of the loan account because of the pendency of this Writ Petition.

Now that the learned counsel for the petitioner comes forward with a plea that the petitioner will pay up the balance amount of Rs.16,80,000/- in one or more number of instalments before 30.04.2016, we consider that ends of justice would be adequately met if we permit the petitioner to pay up the balance amount of the best bid received by the first respondent-Bank in so far as the property which belongs to the writ petitioner, which fetched an offer of Rs.32,80,000/- subject to the petitioner depositing the balance amount of Rs.16,80,000/-, in one or more number of instalments on or before 30.04.2016. The first respondent-Bank may allow the petitioner to redeem the mortgage created over the immovable property bearing door No.18-88 in Survey No.522/3 near Head Post Office (Old) Nandigama, Krishna District. In the event the petitioner fails to deposit the said amount of Rs.16,80,000/- before 30.04.2016, it shall be open to the first respondent-Bank to accept the balance 75 of the bid amount from the best bidder and also execute a sale certificate and deliver possession of the property as well to the auction purchaser. On the other hand, if the petitioner complies with the condition imposed in this order today, the first respondent-Bank shall execute an appropriate deed releasing its lien/charge/interest over the immovable property bearing door No.18-88 in Survey No.522/3 near Head Post Office (Old) Nandigama, Krishna District in favour of the writ petitioner herein at the expense of the writ petitioner.

The Writ Petition stands disposed of accordingly. There shall

be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(NOOTY RAMAMOHAN RAO, J)

(DR B.SIVA SANKARA RAO, J)

14th March 2016

RRB