THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

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

WRIT PETITION No.5620 of 2016

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

The 6 petitioners have challenged the proposed auction of the respondent/Canara Bank, to sell away the secured asset by way of e-auctions for realising the debt due from the petitioners.

In view of the order, which we propose to pass today after hearing Sri Peri Prabhakar, learned counsel for the petitioners and Sri Deepak Bhattacharjee, learned counsel for the respondent/Bank, the necessity to record in great detail the facts is obviated.

There is no denial of the fact that the petitioners are the borrowers of the respondent/Bank and the loan account has become Non Performing Asset and as of now they owe a little more than Rs.6.34 crores to the respondent/Bank. For realising which debt, measures as contemplated and provided for under Sub Section 4 of Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act') are initiated by the Bank through its notice dated 21.01.2016, indicating that after the expiry of 30 days period from the date of the said notice, e-auctions would be conducted.

Sri Peri Prabhakar would submit that the secured asset, going by the market price prevailing in the twin cities, is worth nearly 50-60 crores of rupees. But, however, if the respondent/Bank were put to auction, it would not fetch the true market value. Hence, the petitioners seek to scout on their own for a prospective purchaser and take him along with them and deposit the entire outstanding liability with the respondent/Bank, so that they can retrieve the original documents deposited by them at the time of creating mortgage with the respondent/Bank, for which purpose they seek time till 30.03.2016.

Since the proposal that came from the writ petitioners appears to serve the ends of justice better, we grant time to the petitioners to liquidate the entire liability on or before 30.03.2016 either on their own or authorizing someone else on their behalf to liquidate the said liability by depositing the entire outstanding liability together with incidental expenditure incurred by the respondent/Bank for undertaking the securitization measures. Failure on the part of the petitioners to liquidate the liability in its entirety by 30.03.2016 automatically springs to life the right of the respondent/Bank to liquidate the secured asset any time after 01.04.2016 without any further reference to this Court. It is brought to our notice that the secured asset is comprising of 5 floors, each floor having independent access and the possibility and prospects of putting to sale floor wise may however be explored, which might effectively liquidate the entire liability. However, we leave this aspect to the discretion of the respondent/Bank.

With this observation, this writ petition stands disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE Dr. B.SIVA SANKARA RAO

24.02.2016
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