THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE Dr.JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.4369 of 2016

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

The petitioner herein seeks a writ of Mandamus for declaring the action of the respondent-Bank in issuing auction/sale notice dated 22.01.2016 proposing to conduct the auction on 25.02.2016 in respect of the industrial land measuring total extent of Ac.1-79 cents in Sy.No.133A1, 133A2, 130A1 and 130A2 situated at Parvathapuram Road, Adoni Municipality, Kurnool District pending disposal of S.A. No.58 of 2015 before the Debt Recovery Tribunal, Hyderabad as bad in law.

2) It appears that the petitioner has availed a financial assistance in a sum of Rs.30.00 lakhs (Rupees thirty lakhs only) from the respondent-Bank in the year 2010. The industrial plot of an extent of Ac.1-79 cents at Parvathapuram Road, Adoni Municipality, is offered as a security to the loan transaction, which is now put to sale as the debt was not recycled properly, making it a non-performing asset. Hence, the respondent-Bank has initiated securitisation measures provided under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act') by raising a demand notice, calling upon the borrower to liquidate the entire liability and having found that the said notice of demand remained unimplemented, hence the respondent-Bank proceeded further by realising the secured asset and hence possession of the same was taken over by the respondent-bank on 20.12.2014 and thereafter, the present sale notice dated 22.01.2016 was issued putting the secured asset to sale.

3) When once a demand notice was served under Sub-section (2) of Section 13 of the Act and if the debt remains un-liquidated within sixty days period, it shall be open to the respondent-bank to proceed further in the matter. Once an asset is a secured asset, and has been possessed by the respondent-bank, under Sub-section (4) of Section 13 of the Act, the next follow up action has to be initiated and carried out to the logical conclusion and otherwise it would be difficult for the respondent-bank to protect the possession of the secured asset lying with them.

4) In those circumstances, the sale notice dated 22.01.2016 proposing to conduct e-auction on 25.02.2016 cannot be objected to. However, we consider that ends of justice would be served better if the respondent-bank does not confirm the sale for a period of thirty days in favour of the highest bidder provided he deposits 25% of his bid amount within the time frame limits/extended time frame limit granted by the Bank. In case, the petitioner does not liquidate the entire liability on or before 30.03.2016, it shall be open to the respondent-bank to proceed further at any time on or after 04.04.2016 and confirm the sale by collecting the balance 75% of the offer money.

5) The writ petition accordingly stands disposed of. No costs. Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

Dr. JUSTICE B.SIVA SANKARA RAO

23.02.2016
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