

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.42016 of 2015

Date: 22.08.2016

Between:

Smt. Sarita Boorugu,
Hyderabad, and another

.. Petitioners

and

State Bank of India,
Rep. by its Branch Manager,
SME Jayanagar Branch,
No.311 (New) 19, 1st Floor,
1st Main Road, 40th cross Jayanagar,
8th Block, Bangalore, and two others.

.. Respondents

Counsel for the petitioners: Sri. A.P. Venu Gopal

Counsel for respondent Nos.1 &2 : Sri. Maruthi Jadav for
Sri. B.S. Prasad

The Court made the following:

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

This writ petition is filed for the following substantive reliefs:

"For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court be pleased to pass an order, writ or direction more in the nature of a mandamus by declaring:

- a) The auction conducted on 26.11.2015 in terms of the e-auction notice dated 28.10.2015 without notifying the encumbrance of the pendency of S.A.No.267/2015 on the file of the Hon'ble D.R.T. – III – Chennai and also having been conducted without issuing a mandatory 30 days period as being arbitrary, illegal, contrary to Rule 8(6) of the SARFAESI rules, and for consequential orders setting aside the auction conducted on 26.11.2015.
- b) Direct the respondents 1 and 2 not to confirm the sale conducted on 26.11.2015, in respect of the properties which are the subject matter of the schedule of this writ petition pending orders in SA 267/2015 before the Hon'ble D.R.T. – III, Chennai; and pending disposal of the writ petition;
- c) Award costs of the writ petition;
- d) Pass such other and further order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

On 21.06.2016, on the representation of Sri Maruti Jadav, learned counsel representing Sri B.S. Prasad, learned counsel for the respondent bank, that sale certificates were issued on 17.12.2015 i.e., prior to passing of the interim order dated 04.01.2016, this Court has adjourned the case for filing the counter affidavit.

The respondent bank has since filed a counter affidavit wherein the aforementioned fact has been averred besides filing copies of the sale certificates.

Sri A.P. Venu Gopal, learned counsel for the petitioners has not disputed the fact of issuance of sale certificates. He has, however, submitted that Securitization Appeal No.267 of 2015 filed by his clients against security measures initiated by the respondents was heard by the Debts Recovery Tribunal, Chennai, and order reserved, but no order has been passed so far.

In the light of the subsequent event of issuance of sale certificates, the learned counsel for the petitioners requested for permission to withdraw the writ petition with liberty to his clients to avail the remedies before the Debts Recovery Tribunal, Chennai.

In the light of the above facts and the submissions of the learned counsel for the petitioners, the writ petition is dismissed without adjudicating the same on merits with liberty to the petitioners in terms of the prayer made.

As a sequel, WPMP.No.54187 of 2015, filed by the petitioners for interim relief stands disposed of as infructuous.

(C.V.NAGARJUNA REDDY, J)

(G. SHYAM PRASAD, J)

Date: 22.08.2016

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