THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.18045 of 2016

ORDER: (per Hon'ble Dr. Justice B. Siva Sankara Rao)

Petitioner is the borrower. Having availed financial assistance from the respondent bank and created a security interest over the property by mortgage, the petitioner failed to adhere to the repayment schedule and for the defaults committed, the debt was transformed as Non-Performing Asset and the enforcement measures were initiated and as per Section 13(2) read with Rule 3 of the Rules framed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the SARFAESI Act'), notice of demand with 60 days to repay the amount due, as on the date, of Rs.19,45,000/-, with future interest with effect from 25.02.2015 was given and for the failure to respond, the bank issued possession notice under Section 13(4) read with Rule 8 of the SARFAESI Act and the Rules made thereunder, and pursuant to the possession notice, the bank to proceed with the sale of the secured assets published to conduct e-auction by fixing the date of e-auction as 10.06.2016 by publication of the sale notice dated 20.04.2016 with 30 days clear time from the date of notification to the date of auction.

Though there is no worth mention in the writ petition grounds to attack the enforcement measures initiated by the bank as rightly pointed out by Smt. Dyumani, learned counsel for the respondent bank, it is one of the submissions of the learned counsel for the petitioner that they are making every endeavour to repay the amount due, but the bank is not cooperating for settlement of the dues and payment of the amount and still they are eager to pay the debt by liquidation of the assets but for some financial constraints.

Having regard to the above, before admission upon hearing both sides, we dispose of the writ petition, while permitting the e-auction scheduled to be held on 10.06.2016 directing the bank not to confirm the sale to be conducted through the authorised officer for two months subject to the condition that the petitioner shall pay a minimum sum of Rs.10 lakhs on or before 10.07.2016 and rest of the amount due including the incidental expenses for the enforcement measures and subsequent interest on or before 10.08.2016. In the event of failure to pay either the first instalment or the second instalment stipulated above and due by 10.07.2016, the bank is at liberty to proceed further in accordance with law to confirm the sale and to collect the remaining 75% of the bid amount and issue sale certificate by transferring the property in favour of the auction purchaser. It is made clear that the petitioner is not entitled to make any application for further extension of time stipulated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Dr. B. SIVA SANKARA RAO, J

Date:09.06.2016

GJ