

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.20094 OF 2016

ORDER: (*Per Hon'ble Sri Justice V. Ramasubramanian*)

The borrower has come up with the above Writ petition challenging the auction sale notice issued under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (For short, 'the SARFAESI Act').

Heard Mr. K. Sai Krishna Mohan Rao, learned counsel for the petitioner, and Mr. Ch. Siva Reddy, learned counsel for the 2nd respondent-Bank.

The petitioner availed a cash credit limit from the Bank, on 15.02.2013, to the tune of Rs.93,00,000/-. The loan was secured by the hypothecation of stocks and the creation of equitable mortgage of an immovable property.

Since the account became a Non Performing Asset (NPA), a notice under Section 13(2) of the SARFAESI Act, was issued on 28.09.2015. It was followed by a possession notice, dated 15.12.2015.

Though the petitioner made representations, dated 04.01.2016 and 25.02.2016, requesting two (2) weeks time to make payment, no payment was made pursuant to those representations.

Even a demand made by the Bank on 04.03.2016 could not bring the desired fruit, forcing the Bank to issue auction notice on 27.05.2016. Contending that the auction notice was issued on 10.06.2016 fixing the date of auction as 29.06.2016, the petitioner came up with the above Writ

petition and obtained an *interim* order of protection. But today, the Bank has filed a counter along with a copy of the original auction notice, which is actually dated 27.05.2016. Therefore, the contention, that there was insufficient notice, is wholly untenable and contrary to the facts. The petitioner has filed a copy of the auction notice in the material papers, which contained the date 10.06.2016. But, the original auction notice contains the date 27.05.2016. Therefore, the petitioner is guilty of suppression and does not deserve any indulgence. Hence, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand dismissed as infructuous.



V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

Date: 20-10-2016.
Dsh

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(Order of the Division Bench delivered by
Hon'ble Sri Justice V. Ramasubramanian)

Date. 20-10-2016

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