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

WRIT PETITION No.35099 of 2015

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Challenge in this writ petition was to the order dated 28.09.2015 passed by the Debts Recovery Tribunal, Visakhapatnam, in S.A.No.266 of 2014. By the said order, the Tribunal directed the petitioners herein to pay the entire dues of the respondent bank along with interest within thirty days from the date of the order and subject to this condition being complied with, the respondent bank was asked to set aside the sale already held by it in relation to the secured assets.

By order dated 28.10.2015, this Court granted interim stay subject to the petitioners depositing Rs.10.00 lakhs within two weeks from the date of the order and a further sum of Rs.10.00 lakhs within two weeks thereafter. On 01.12.2015, this Court extended the time by four more weeks to make the second deposit of Rs.10.00 lakhs. Admittedly, the petitioners failed to make the second deposit within the extended time also and when it was tendered at a belated stage, the respondent bank refused to receive it.

As the conditional interim order was not complied with, it no longer enures to the benefit of the petitioners. However, Sri K. Srinivasa Rao, learned counsel for the respondent bank, would state that owing to the pendency of the writ petition, the bank did not issue the sale certificate in favour of the auction purchaser. Significantly, the auction purchaser did not even choose to come before this Court by seeking his impleadment in the pending case.

As the respondent bank has not completed the process initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act of 2002'), and the property is not legally transferred to the auction purchaser as yet, it would be open to the borrowers to seek redemption under

Section 13(8) of the Act of 2002. However, given the fact that the respondent bank has already conducted the sale but could not complete the process owing to the intervention of the Court, the borrowers must prove their bona fides by making the payments due as stipulated hereunder.

The petitioners shall deposit 50% of the total outstanding dues of the respondent bank along with interest within fifteen days from today i.e. on or before 25.07.2016 and the balance 50% amount along with incidental expenses and also the interest at the rate of 9% per annum payable on the amounts deposited by the auction purchaser, which shall be duly intimated to the petitioners by the respondent bank immediately, on or before 09.08.2016. In the event the petitioners fail to make the deposits as afore-stated, be it the first installment or the second installment, the respondent bank would be at liberty to proceed further in the matter in accordance with law.

The writ petition is accordingly disposed of.

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

8th July, 2016
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