

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE DR. JUSTICE B. SIVA SANKARA RAO
WRIT PETITION No.18008 of 2016

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

The prayer of the petitioner in this case is as under:

“To issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent bank, notice through paper publication only, without any notice to the petitioner in respect of loan transaction A/c.No.32843131854, State Bank of India, NGOs Colony Branch, Nandyal, Kurnool District, A.P. under the procedure of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002, and all its consequential proceedings of the bank are arbitrary and against to the principals of natural justice, contrary to law and to grant such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Perusal of the impugned auction/sale notification reflects that it bears the date 10.05.2016. The date of auction proposed thereunder was 10.06.2016. As there was no indication as to when the auction/sale notification was published in the newspapers, learned counsel appearing for the parties were asked to get instructions as to this aspect.

Today Sri Maruthi Jadhav, learned counsel, representing Sri B.S. Prasad, learned counsel for the respondent/State Bank of India, states that the aforestated sale notification was published in the newspapers only on 11.05.2016. That being so, the date of auction would fall on the 30th day and there would be no clear 30 days time between the sale notification and the proposed date of sale. This is in clear violation of the law laid down by the Supreme Court in **Mathew Varghese Vs. M. Amritha Kumar & Ors**^[1] which reiterates the statutory mandate that a clear 30 days period should be available between the date of the sale notification published in the newspapers and the date of sale.

On this short ground, the Writ Petition is allowed setting aside the impugned sale notification dated 10.05.2016. This order, however, shall not preclude the respondent/Bank from initiating action afresh in accordance with law.

Pending Miscellaneous Petitions shall stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 09.06.2016

Note: Issue C.C. by 14.06.2016

(B/o)

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[\[1\]](#) (2014) 5 SCC 610