

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.28176 of 2016

Date: 23.08.2016

Between:

Siva Murthy Kalasappanavara

..Petitioner

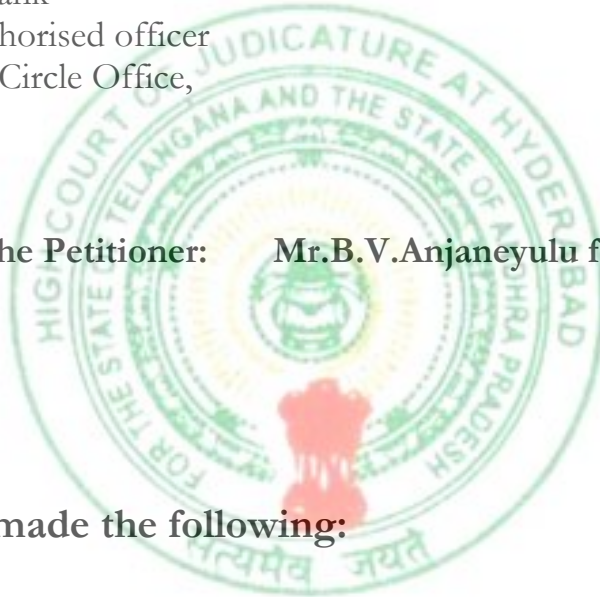
and

M/s.Canara Bank
rep. by its Authorised officer
R&L Section, Circle Office,
Hyderabad.

..Respondent

Counsel for the Petitioner: Mr.B.V.Anjaneyulu for Mr.C.Raghu

The Court made the following:



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

The petitioner, who is a borrower from the respondent, has filed this Writ Petition for a Mandamus to declare Order, dated 29-06-2016, of the Debts Recovery Tribunal, Hyderabad (for short 'the DRT'), in S.A.No.240 of 2016 to the extent of grant of two weeks' time only for deposit of the balance payment of 10%, as illegal and arbitrary.

We have heard the learned Counsel for the parties and perused the record.

As the petitioner failed to repay the loan amount as per the schedule of payments, the respondent classified his loan account as 'NPA' and initiated securitization measures for recovery of the said amount from him. As a part of the same, when a sale notice was issued on 10-06-2016 fixing '14-07-2016' as the date of auction, the petitioner approached the DRT by filing SA.No.240 of 2016. By the impugned Order, the latter has permitted the petitioner to pay 20% of the due amount in two biweekly installments and directed the respondent not to confirm the sale on that condition.

Having paid the first installment of 10% of the due amount, the petitioner has failed to pay the second and the last installment within the time stipulated. As a result thereof, the respondent has issued a fresh auction notice on 11-08-2016 fixing '19-09-2016' as the date of auction. At this stage, the petitioner filed this Writ Petition questioning the aforementioned order of the DRT to the extent of not granting reasonable time for payment the balance 10% of the due amount.

In our opinion, this Writ Petition is wholly misconceived for more than one reason. The petitioner has not questioned the order of the Tribunal immediately after the same was passed. On the contrary, he has partly complied with the said order by paying the first installment of 10% of the due amount and committed default in payment of the balance 10% of the due amount. If the petitioner felt that the DRT has not given adequate time, he ought to have approached it for extension of time. Instead of doing so, the petitioner kept quiet till the fresh sale notification was issued and approached this Court by way of the present Writ Petition. Hence, the order of the DRT fixing the time schedule for payment of minimum 20% of the due amount cannot be said to be illegal or arbitrary. On the

contrary, the DRT appears to be very considerate in permitting the petitioner to pay only 20% of the due amount.

In these facts and circumstances of the case, we do not find any merit in this Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.34912 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 23rd August, 2016
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