THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.7840 of 2016

ORDER : (per the Hon'ble Sri Justice Nooty Ramamohana Rao)

This writ petition, which seeks to challenge the e-auction sale notification dated 19.02.2016, is instituted by the borrower. It is not in dispute that he has availed certain financial assistance from the respondent-Indian Bank which squarely answers the description as Bank under Section 2(1)(c) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act') and the petitioner answers the description of the expression of 'Borrower' as defined in Section 2(1)(f) of the Act. The security interest which the petitioner herein has created in favour of the 1st respondent-Bank answers the definition as contained in Section 2(1)(zf) of the Act. Under Section 13 of the Act, measures for securitisation can be taken by a secured creditor like that of the 1st respondent-Bank, for realising the debt due to it. Therefore, no exception need be taken to the action of the 1st respondent-Indian Bank in taking measures of securitisation of the non-performing loan account under Section 13 of the Act. But, however, the submission of Sri Narasimhulu, learned counsel for the petitioner, that give some little reasonable time to the petitioner who is anxious to liquidate the liability completely and thus save the property, deserves consideration.

As per the impugned sale notice, the outstanding liability is approximately around Rs.12.42 lakhs as on 18.02.2016 together with interest and incidental expenses. Though we are not interested in interdicting the right of the respondent-Bank to conduct sale of the secured asset by e-auction method, but however, we direct the respondent-Bank not to confirm the said sale till 04.07.2016 subject to the following conditions:

(i) The petitioner shall deposit a sum of not less than Rs.3,00,000/- in one or more than one instalments on or before 30.03.2016.

(ii) The petitioner shall also deposit the next instalment of Rs.3,00,000/- similarly in one or more instalments before end of April, 2016 and the entire outstanding liability shall be cleared before the end of June, 2016.

(iii) Any default committed by the petitioner in making the payment, secures the right to the respondent-Bank to go ahead and confirm the sale in favour of the best bidder without any further reference to this Court.

The writ petition is disposed of after taking into account the submissions made by Sri Ambadipudi Satyanarayana learned counsel who accepts the notice on behalf of the respondent-Bank. No costs. Consequently, miscellaneous petitions, if any shall stand closed.

NOOTY RAMAMOHANA RAO, J

Dr.B.SIVA SANKARA RAO, J

17-03- 2016

N.B: C.C by tomorrow
(b/o) ksh