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

WRIT PETITION No.6646 of 2016

ORDER: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

The petitioners herein seek to challenge the notice which is published on 31.01.2016 in Times of India Newspaper proposing to sell the immovable property over which the petitioners have created a security interest by creating the mortgage in favour of the respondent/Bank, for availing financial assistance from it.

Since the petitioners answer the description of 'borrower' as defined in Section 2(1)(f) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and the respondent/Bank answers the description of the 'Bank' as defined under Section 2(1)(c), and 'default' is committed as defined under Section 2(1)(j) and the property over which mortgage was created answers the description 'security interest' as defined under Section 2(1)(zf) of the Act, the respondent/Bank is justified in taking measures for securitization of the secured asset as the loan account has been rightly classified as Non Performing Asset. Further, a notice served on the petitioners under Sub Section 2 of Section 13 of the Act on 02.01.2015 remained unanswered and non-responsive. Hence, having waited for one year's time after serving the notice under Sub Section 2 of Section 13 of the Act, the measures contemplated and provided for under Sub Section 4 of Section 13 of the Act have been initiated by the respondent/Bank. The respondent/Bank has proposed to sell the security interest by way of e-auction on 04.03.2016 between 11.00 AM and 05.00 PM. Since the action of the respondent/Bank is strictly in accordance with the terms and stipulations contained under Section 13 of the Act, we cannot find fault with it in any manner, but however, the petitioners make a plea that they are anxious to liquidate the liability provided a reasonable period of time of two months is granted to them. Hence, while we permit the respondent/Bank to proceed further with the e-auction slated for 04.03.2016, we direct the respondent/Bank not to confirm the sale till 03.05.2016 subject to the following conditions:

1) The petitioner shall liquidate 50% of the outstanding liability on or before 30.03.2016 and the balance amount of outstanding liability together with the incidental expenses incurred by the respondent/Bank for undertaking securitization measures be deposited on or before 30.04.2016;

2) Any default committed by the petitioners herein in living up to the aforesaid 2 installments payment schedule, the respondent/Bank would be at perfect liberty to proceed further and confirm the sale in favour of the best bidder(s) by accepting balance 75% of the bid amount and then issue a sale certificate followed by delivery of possession of the secured asset without any further reference to this Court.

With this observation, this writ petition stands disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE Dr. B.SIVA SANKARA RAO

03.03.2016
Note: Issue C.C. in two days
(B/o)
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