THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.6817 of 2016

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

The petitioners herein challenge the measures taken by the 1st respondent/Bank herein under Sub Section 4 of Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act').

The necessity to record in great detail the facts is obviated in view of the proposed order to be passed by us.

There is no denial of the fact that the petitioners are borrowers and that they have availed certain financial assistance from the 1st respondent/Bank. The petitioners have committed default in repayment of the loan amount. Consequently, the 1st respondent/Bank declared the loan account as Non Performing Asset and thereafter, issued a notice under Sub Section 2 of Section 13 of the Act, raising a demand on the borrowers to liquidate the outstanding liability. Though notice is served, it has not produced the desired result or response from the petitioners. Having waited for 60 days period from the date of notice, the 1st respondent/Bank has initiated measures under Sub Section 4 of Section 13 of the Act by putting it to sale by public action and also through e-auction/bidding. The sale is slated to be held on 07.03.2016. Smt. V.Dyumani, who accepted notice on behalf of the 1st respondent/Bank, would urge that there are no *bona fides* behind the claim of the petitioners herein and they have committed more number of irregularities than what the present notice under Sub Section 2 of Section 13 would reveal. It is also brought to our notice that independently the 1st respondent/Bank has taken steps to prosecute the borrowers for their alleged criminal culpabilities.

Be that as it may, while we propose not to interdict the proposed sale of secured asset of the petitioners as the action of the 1st respondent/Bank is in accord and in confirmation with the provisions contained under Section 13 of the Act, but, however, we direct the respondent/Bank not to confirm the sale in favour of the best bidder(s) pursuant to e-auction sale proposed to be conducted on 07.03.2016 between 03.00 PM to 04.00 PM, subject to the following conditions:

1. The petitioners shall deposit a sum not less than Rs.1.00 crore each month commencing from the month of March, 2016. The petitioners shall deposit the first of such deposit on or before 30.03.2016 and the next 3 installments shall be before the last working day of the month of the Bank in April, May and June, and before the end of June, 2016 the petitioners shall also liquidate the incidental expenses incurred by the respondent/Bank in undertaking securitization measures;

2. Apart from the entire outstanding liability together with interest, if any default is committed by the petitioners in depositing any installment as indicated supra, the 1st respondent/Bank would be at liberty to proceed further and confirm the sale and also collect the balance 75% of the bid amount from the intended purchaser and proceed to deliver the 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

ska