THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

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

WRIT PETITION No.1525 OF 2016

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

This Writ Petition is instituted by the wife of the principal borrower challenging the action of the respondent-the Andhra Pradesh Grameena Vikas Bank, in proposing to conduct e-auction of the secured asset comprising of 400 sq.yards with a built up area of 2700 sq.ft. situated at Jedcherla, Mahaboobnagar district.

2. In view of the order proposed to be passed by us, the necessity to advert to all the facts in great detail is obviated. Hence, suffice to note that the principal borrower answers the description of the borrower as defined under Section 2(1)(f) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act') and the respondent bank, which squarely answers the expression 'Bank' as defined in Section 2(1)(c) of the Act, and the default committed by the principal borrower squarely falls within the meaning assigned to the said expression under Section 2(1)(j) of the Act. Since the loan account has been declared as a non-performing asset by the respondent bank, it is entitled to invoke the provisions available under Section 13 read with Section 14 of the of the Act. Hence, we cannot find any infirmity in the action undertaken by the respondent bank for securitization and the loan account of the principal borrower. However, Sri P. Nageshwar Rao, the learned counsel for the petitioner, would urge that the petitioner herein is running a small school in the said premises and hence she is very anxious to liquidate the liability given some little time, the petitioner liquidates the whole of the liability independently or in association with the principal borrower. It is also urged that right now the academic year is drawing to a close and the students, who are nearly 400 in number, are put to hardship, when the examination season is just around the corner because of the respondent bank's action in seizing property. He therefore urges that the petitioner either independently or jointly with the principal borrower be permitted to

liquidate the entire liability in four (4) months time from now.

3. We concur with the plea of the petitioner herein that the petitioner herein is also entitled to liquidate the liability on behalf of the principal borrower independently or in association with the principal borrower but, however, since the outstanding liability as of now is a little more than 40lakhs after giving credit to Rs.10,00,000/-(Rupees ten lakhs only) which the petitioner has deposited on 04.02.2016. Hence, the petitioner either independently or in association with the principal borrower shall deposit a sum of not less than Rs.10,00,000/-(Rupees ten lakhs only) before the end of April, 2016 and she also deposit equal amounts before the end of May and June, 2016 respectively. If any default is committed in liquidating the liability as agreed to today, which is accepted by us now, the respondent bank has perfect liberty to proceed against the secured asset strictly in accordance with the law. However, if the petitioner complies with this direction by depositing the first instalment of Rs.10,00,000/-(Rupees ten lakhs only) as an interim arrangement of management of the secured asset, the possession of the secured asset may be delivered to the petitioner herein by the respondent bank.

4) The writ petition accordingly stands disposed of. No costs. Consequently, miscellaneous petitions, if any shall stand closed.

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JUSTICE NOOTY RAMAMOHANA RAO

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Dr. JUSTICE B.SIVA SANKARA RAO

Date: 15.03.2016
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