THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
and
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.28753 of 2016

ORDER: **(per VRS, J)**

Petitioner has come up with the above Writ Petition challenging an order passed by the Debts Recovery Tribunal (for short 'the Tribunal') dismissing an application, resulting in issuance of sale notice.

Heard Mr. Sricharan, learned counsel for the petitioner and Sri M. Srikanth Reddy, learned Standing Counsel for respondents 2 and 3 - bank.

As against a possession notice issued under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the petitioner approached the Tribunal and obtained an order of status quo way back on 07.01.2013. The status quo order was vacated and the bank was permitted to proceed with the auction, by an order passed on 16.03.2016, when the counsel for the petitioner did not appear. Therefore, the petitioner is before this Court.

There is no dispute about the fact that the petitioner was in enjoyment of an order of status quo from 07.01.2013. It is also true that he was absent on 16.03.2016 as well as on the previous date, namely, 18.01.2016. But, the fact remains that during the entire period from 07.01.2013, the benefit of the interim order continued sometimes when the petitioner was absent, sometimes when the bank filed applications for amendment and sometimes when there was no Presiding Officer for the Tribunal. It appears from the docket orders that both parties argued the appeal way back in June, 2013. If only the Tribunal had disposed of the application in 2013, this position would not have come. Therefore, we are of the considered view that the valuable rights of the petitioner cannot be defeated. If the petitioner is given one opportunity to appear and argue his case before the Tribunal, it will meet the ends of justice.

Therefore, the Writ Petition is allowed and the order of the Tribunal dated 16.03.2016 is set aside. The Tribunal is requested to dispose of either the application for stay or the Securitization Appeal itself, within a period of four weeks from the date of receipt of a copy of this order. If the petitioner succeeds, the auction sale conducted in August, 2016 will stand set aside. If the petitioner fails, it will be open to the bank to confirm the auction.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

9th NOVEMBER, 2016.

G. SHYAM PRASAD, J

Note: issue c.c. tomorrow.

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