THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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WRIT PETITION No.261 of 2015

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Challenge in this writ petition was to the order dated 02.01.2015 passed by the Debts Recovery Tribunal, Hyderabad, dismissing S.A.No.159 of 2009 filed by the petitioner.

The S.A. arose in the context of the possession notice dated 03.04.2009 issued by the respondent bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, read with the Security Interest (Enforcement) Rules, 2002. Pursuant to the interim order granted in the S.A., it appears that the petitioner paid a sum of Rs.50,000/-. This interim order also demonstrates that the amount due from the petitioner to the bank as on 20.10.2007 was Rs.1,07,654.40 ps.

While ordering notice before admission on 13.01.2015, this Court misconstrued the afore-stated interim order to mean that the balance amount payable by the petitioner was only Rs.57,000/- and accordingly granted interim stay of further proceedings subject to his depositing the said amount within two weeks. It is now stated before us that this conditional order has been complied with.

However, Sri Maruti Jadav, learned counsel representing Sri B.S. Prasad, learned counsel for the respondent bank, would state that the amount due from the petitioner was not Rs.57,000/- as presumed by this Court and after adjusting the amount of Rs.57,000/- paid by the petitioner pursuant to the interim order dated 13.01.2015, a sum of Rs.56,161/- is still due and payable by the petitioner towards closure of the loan account along with incidental expenses incurred in relation to the proceedings initiated under the Act of 2002. This amount was quantified with reference to the date 21.06.2016. We find merit in this submission as the amount due as in the year 2007 would continue to collect interest after part discharge thereof by payment of Rs.50,000/- under the interim orders of the Debts Recovery Tribunal.

As the respondent bank is yet to initiate proceedings for sale of the secured asset and the matter was stayed at the stage of the possession notice, we are of the opinion that the petitioner can be allowed reasonable time to discharge the outstanding dues.

The petitioner is therefore permitted to make the payment of the balance outstanding dues as afore-stated in two installments. He shall make payment of 50% of the total outstanding dues, as informed to him by the respondent bank by registered post with acknowledgment due, on or before 12.08.2016 and the balance 50% of the amount due including the incidental expenses by 13.09.2016. It is clarified that the incidental expenses that the bank may collect from the petitioner would not include the lawyer's fees incurred by the bank in relation to any court cases filed by the petitioner. In the event the petitioner commits default in payment of either of the afore-stated two installments, the bank would be at liberty to proceed in the matter in accordance with law.

The writ petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Dr. B. SIVA SANKARA RAO, J

12th July, 2016
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