HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION Nos.6566 & 6597 of 2016

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

These writ petitions have been filed challenging the notices dated 05.02.2016 and 20.02.2016, proposing to conduct the sale by e-auction by the authorized officer of the respondent/Bank.

Though several contentions have been canvassed before us and after generating debate at the bar, Sri G.Vasantha Rayudu, learned counsel for the petitioners, would agree that the petitioners herein answer the description of 'borrower' as defined under 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 'Bank' as defined under Section 2(1)(c) of the Act and further, the mortgage created over the property in question answers the description of 'secured asset' as defined under Section 2(1)(zc) of the Act. In view of the default committed in liquidating the liability which rendered the loan account as Non Performing Asset and consequently, the asset is liable for securitization measures under Section 13 read with Section 14 of the Act. But, however, the plea raised by the learned counsel that one last opportunity may be provided to the petitioners to protect their valuable property from going under the hammer deserves consideration. Learned counsel for the petitioners would urge that though a fair and transparent procedure is generally adopted by the Banks while liquidating the liability, but, nonetheless, the properties will not be fetching the true and correct market value, which the same property would have fetched when private negotiations are undertaken. They go sometimes for as a low margin of 25%. Therefore, they appeal to us to liquidate the liability in a reasonable quick time from now and save their properties. While we appreciate the concern of the writ petitioners to liquidate the entire liability, but nonetheless, we cannot interdict the proposed sale of e-auctions undertaken by the respondent/Bank as that would result in derailing the entire scheme of securitization measures adopted by the Bank as well. Hence, we permit the Bank to proceed further with the e-auction sale, but we direct the respondent/Bank not to confirm the sale subject to the writ petitioners herein fulfilling the conditions:

1. The petitioners shall deposit a sum not less than 50% of the outstanding liability on or before 18.04.2016 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 31.05.2016;

2. Any default committed by the petitioners herein in complying with either of these 2 conditions would enable the respondent/Bank to confirm the bid of the best bidder without any further reference to this Court and that would enable the Bank to receive the 75% of the bid amount and also deliver possession of the secured asset to the best bidder.

With this observation, both the writ petitions stand 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

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