

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.30039 of 2016

Date: 07.09.2016

Between:

R.Shankar Rao

..Petitioner

and

The Union of India
rep. by its Secretary,
Ministry of Finance, New Delhi and another

..Respondents

Counsel for the Petitioner: Mr.L.Shantaram
for Mr.K.Sai Krishna Mohan Rao

The Court made the following:



Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The principal borrower under Over Draft Loan Account No.1179261005810 with respondent No.2- Bank filed this Writ Petition feeling aggrieved by the E-Auction Notice issued by the said respondent fixing '19-09-2016' as the date of auction of the mortgaged property belonging to him.

Admittedly, the petitioner has approached the Debt Recovery Tribunal, Hyderabad (for short 'the DRT'), aggrieved by the securitisation measures initiated by respondent No.2, *vide* SA.No.144 of 2016 wherein the Tribunal directed respondent No.2 not to take any coercive action against the secured assets provided the petitioner deposits a sum of Rs.20 lakhs, out of which, a sum of Rs.6 lakhs must be deposited within three weeks, another of sum Rs.7 lakhs within three weeks thereafter and the remaining sum of Rs.7 lakhs after three weeks of deposit of the second instalment. The Tribunal has also added a default clause leaving respondent No.2 free to proceed further, in the event the petitioner fails to comply with any of the above conditions. Since the petitioner failed to comply with the said conditions, respondent No.2 has issued the impugned E-Auction Notice.

Mr.L.Shantaram, learned Counsel representing Mr.K.Sai Krishna Mohan Rao, learned Counsel for the petitioner, submitted that his client has, in fact, taken a Demand Draft for a sum of Rs.1,55,00,000/- on 30-07-2016 and that as certain formalities relating to transfer of the documents with respondent No.2 could not be fulfilled, the said Demand Draft was not delivered. He has further submitted that his client is prepared to handover the afore-mentioned Demand Draft to respondent No.2 before the scheduled date of sale.

Inasmuch as the Securitisation Appeal filed by the petitioner is pending before the DRT, we are not inclined to adjudicate the Writ Petition on merits. However, as the regular Presiding Officer of the DRT is not available, we feel that the interests of justice would be met, if the petitioner's interests are protected *pro tempore* subject to certain conditions.

Accordingly, the Writ Petition is disposed of subject to the following terms:

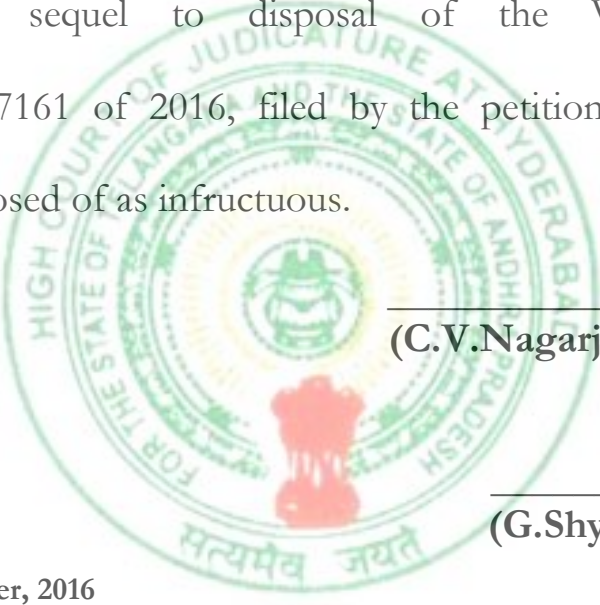
- (1) As agreed by the petitioner, he shall hand over the Demand Draft for Rs.1,55,00,000/- to respondent No.2 on or before 19-09-2016. In such event, respondent

No.2 shall not proceed with the sale for a period of two months.

(2) In the meantime, the petitioner is permitted to approach the DRT with appropriate application in the pending Securitisation Appeal.

(3) If the petitioner fails to comply with the afore-mentioned condition, respondent No.2 shall be free to proceed further in pursuance of the impugned auction notification.

As a sequel to disposal of the Writ Petition, WPMP.No.37161 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 7th September, 2016
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