THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No. 7151 OF 2016

O R D E R: ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

The petitioner herein has mounted a challenge to the latest sale notice delivered to it on 18.11.2015 in accordance with Rule 8 of the Security Interest (Enforcement) Rules, 2002 by the 1st respondent bank.

In view of the order proposed to be passed by us now, we are not narrating all the facts in great detail except recording those which are essentially needed for disposal of this Writ Petition.

The petitioner herein is a firm carrying on certain engineering works. Therefore, for its business purposes, the petitioner firm borrowed certain monies from the 1st respondent bank and the petitioner, as claimed, has already paid about Rs.70-80 crores from time to time to the 1st respondent bank. In paragraph 2 of the affidavit filed in support of this Writ Petition, it is stated that a sum of Rs.13.445 crores was outstanding and overdue as on 02.09.2015. Hence, the respondent bank has initiated securitization measures. When they delivered the symbolic possession notice dated 18.11.2015, challenging the same, the present Writ Petition is instituted.

Sri B.S. Prasad, learned Standing Counsel for the 1st respondent bank would inform us that an amount of nearly Rs. 15 crores is outstanding and due from the petitioner firm. Hence, the 1st respondent bank has proposed to liquidate the secured asset on 11.03.2016 by way of *e*-auction between 12.00 Noon and 01.00 P.M.

Sri E.V.V.S. Ravi Kumar, learned counsel for the petitioner would urge that the petitioner is very anxious to clear and liquidate the entire liability towards the 1st respondent bank, provided it is accorded some reasonable time so as to secure the necessary help and also realize the monies due and payable to it by other parties.

In that view of the matter, while we are not interested in interdicting the scheduled sale of the secured asset on 11.03.2016 between 12.00 Noon and 01.00 P.M., but however, we direct the 1st respondent bank not to accept 75% of the bid amount from the best bidder(s) and instead, accept 25% of the bid amount and not to confirm the sale till 30.06.2016, subject to the following conditions:

1) The petitioner shall deposit a sum of not less than Rs. 500 lacs to the loan account on or before 30.03.2016.

2) The balance outstanding liability including the incidental expenses and the possible interest, which the best bidder will have to be paid for the amounts deposited by him pursuant to his participation in the auction conducted by the 1st respondent bank, shall be paid in one or more than one installment before 30.06.2016.

3) In each of the months of April and May, the petitioner shall deposit with the 1st respondent bank a sum of not less than Rs. 2 crores. The entire loan amount shall, however, be regularized or liquidated by 30.06.2016.

4) Any default committed by the petitioner in sticking to this schedule, which is now fixed, would permit the 1st respondent bank automatically to confirm the sale in favour of the best bidder and put him on notice to pay the balance 75% of the bid amount, receive it and then, execute a sale certificate in his favour and also deliver possession of the secured asset to him.

The above order has been passed notwithstanding the fact that the petitioner herein answers the description of ‘borrower’, ‘default’ committed by it and ‘secured asset’ created by it as defined in clauses (f), (j) and (zc) of sub-section (1) of Section 2 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the 1st respondent bank answers the description of ‘bank’ as defined in Section 2(1)(c) of the Act and that it is entitled under Section 13 of the said Act to take securitization measures.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

04th March 2016

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