

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

**The Hon'ble Sri Justice G.Shyam Prasad**

—  
**Writ Petition No.27092 of 2016**

—  
**Date: 12.08.2016**

**Between:**

N.Surya Kumari

**..Petitioners**

**and**

The Indian Overseas Bank  
Central Office  
Rep. by its General Manager  
Chennai and 3 others

**..Respondents**

**Counsel for the Petitioner: Mr.S.Satyam Reddy  
for Smt.K.V.Rajasree**

**The Court made the following:**

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

This Writ Petition is filed for a Mandamus to set aside Order, dated 05-08-2016, whereby the respondent has rejected the request of the petitioner for extension of time for payment of the balance loan amount upto 31-01-2017.

We have heard Mr.S.Satyam Reddy, learned Senior Counsel appearing for Mrs.K.V.Rajasree, learned Counsel for the appellant, and Mr.CVS.Raju, learned Counsel for respondent Nos.1 to 4.

The following facts are undisputed. Assailing the Securitization measures initiated by respondent Nos.1 to 3, the petitioner has filed WP.No.28217 of 2015. A Division Bench of this Court by Order, dated 01.04.2016, *inter alia* passed the following order:

“In this given facts and circumstances, we consider that it would be appropriate to regulate the further exercise, keeping in view the fact that the only collateral security that has been offered to the debt was the immovable property belonging to the writ petitioner, which has been mortgaged in favour of the bank.

Hence, subject to the writ petitioner depositing a further sum of Rs. 50 lacs on or before 30.04.2016 and a further sum of Rs. 50 lacs on or before 31.05.2016 and then submitting a detailed representation to the 1st respondent bank to consider waiving the balance amount, an appropriate decision may be taken by the 1st respondent. Till an appropriate decision is taken by the 1<sup>st</sup> respondent,

the proposed/threatened sale of the immovable property belonging to the writ petitioner which has been offered as collateral security to the loan transaction of the 4<sup>th</sup> respondent may not be proceeded further. However, if the writ petitioner were to commit default in complying with any of the conditions stipulated herein, the 1<sup>st</sup> respondent bank, without any further reference to this Court and without any regard for the pendency of this Writ Petition, may proceed independently and in accordance with law.”

Having failed to comply with the conditions stipulated in the said order, the petitioner has filed WPMP.No.17007 of 2016 for extension of time for payment of the amount. With great reluctance, the Divisions Bench extended the time by its Order, dated 26-04-2016, on certain conditions as under:

“The petitioner is directed to pay the entire amount on or before 31.07.2016. In the meantime, the Bank is entitled to take constructive possession and permit (under the bank) the petitioner-borrower to continue in physical possession. In the event of the petitioner’s failure to pay as directed supra on or before 31.07.2016, as part of the further securitization measures, the bank can put the property for sale under its constructive possession and confirm the sale by collecting the bid amount and issue sale certificate and

deliver physical possession to the highest bidder by dislodging the petitioner without any further reference of the court and also without need of approaching any other Court of law but for by virtue of this order.”

The petitioner, who failed to take advantage of the extended time granted by the Division Bench, has approached the respondents with a request to extend the time till 31.07.2016. The said request was rejected under the impugned order.

In our opinion, having invited two successive orders from this Court and failed to capitalize on the indulgence shown by this Court, the petitioner was not expected to approach the Bank for further extension of time. At best, the only remedy available for the petitioner was to seek further extension of time subject to the discretion of this Court. She cannot create a fresh cause of action by approaching the Bank and getting her request rejected. We are, therefore, of the opinion that this Writ Petition is not maintainable as any order that may be passed by this Court in this Writ Petition would run contrary to the afore-mentioned two orders passed in WP.No.28217 of 2015.

Subject to the above observations, the Writ  
Petition is dismissed.

As a sequel to dismissal of the Writ Petition,  
WPMP.No.33541 of 2016, filed by the petitioner for  
interim relief, is disposed of as infructuous.

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**(C.V.Nagarjuna Reddy, J)**

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**(G.Shyam Prasad, J)**

**Dt: 12<sup>th</sup> August, 2016**  
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