

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 42752 of 2016

ORDER: (*Per VRS,J*)

The petitioners, who claim to have deposited money in a Company, which went into a financial crisis, have come up with the present writ petition, challenging an auction sale notice issued by the respondent-Bank.

2. Heard Mr. B.V. Rama Rao, learned counsel for the petitioners. Mr. G. Kalyan Chakravarthy, learned standing counsel for ICICI Bank Limited, takes notice for the respondents 2 and 3.

3. Admittedly, the property sought to be put to auction was the subject matter of an attachment ordered by competent authority and confirmed by competent authority under the provisions of the A.P. Protection of Depositors of Financial Establishments Act, 1999 (for short 'the Act'). Therefore, the respondent-Bank filed an application in CrI.M.P.No.495 of 2016 in CrI.M.P.No.434 of 2011 on the file of the VIII Additional Sessions Judge, Vijayawada, under Section 7 (6) of the Act, seeking to raise the order of attachment and to grant permission to sell the property. The said application was allowed by

the Sessions Court, by an order, dated 23.09.2016. The operative portion of the said order reads as follows:

“In the result, the petition is allowed by raising (canceling) the attachment in respect of petition schedule property made in Crl.M.P.No.434/11 and permitted the petitioner to bring the petition schedule property for sale under the provisions of SARFAESI Act as agreed between the petitioner and R1 by way of Memorandum of Understanding dt.2-2-16 and directed the petitioner to deposit the balance sale consideration after appropriating 4.1 crore amount before this Court to be utilized for payment of the amounts due to the depositors. The petitioner has to inform the 1st and 2nd respondents herein in advance about the proposed proceedings under SARFAESI Act and submit the report with regard to the auction proceedings.”

4. Pursuant to the said order, the respondent-Bank has issued an advertisement for the auction sale of the property on 05.11.2016. The contention of the petitioners, who are the depositors, is that when the properties were directed to be auctioned and a sum of Rs.4.10 crores alone has been directed to be appropriated, the respondent-Bank has indicated in the auction notice a reserve price of Rs.11.50 crores and amount outstanding as more than Rs.9.6 crores. In other words, the grievance of the petitioners is that the respondent-Bank is not entitled to claim any amount over and above a sum of more than Rs.4.10 crores.

5. But, we do not think that the petitioners are entitled to raise such a plea before this Court. The respondent-Bank may indicate any amount as due to them in the auction notice. Once they have secured

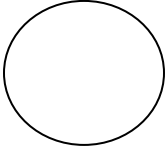
permission to sell the property and once the Court has directed them to appropriate a particular sum of money under the order, dated 23.09.2016, what happens after the same is a matter that could be taken note of only by the competent Court under the Act. If at all the respondent-Bank does not deposit the amount over and above Rs.4.1 crores before the criminal Court, it is for the petitioners to approach the Criminal Court for appropriate relief and the Criminal Court is not powerless to enforce its own orders passed on 23.09.2016. When the main proceedings are pending before the appropriate Court under the Act and the order of the appropriate Court directs the respondent-Bank to file a report after the sale, we do not know why we should interfere at this stage. Therefore, leaving it open to the petitioners/depositors to move the appropriate Court, the Writ Petition is dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

8th December, 2016
cbs



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AND
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Writ Petition No. 42752 of 2016
(dismissed)

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