HON'BLE SRI JUSTICE R.KANTHA RAO
AND
HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

Writ Petition No.14160 of 2016

ORDER: (*per Hon'ble Dr.Justice B.Siva Sankara Rao*)

The petitioner is the borrower, within the meaning of Section 2(1)(f) of the SARFAESI Act, 2002 (for short 'the Act'), having availed financial assistance from the respondent-bank, which is covered by the secured interest within the meaning of Section 2(1)(zf) of the Act and from the default committed in paying the amount, the account is classified as non-performing asset, within the meaning of Section 2(1)(o) of the Act and the bank initiated securitization measures. As a part of the securitization measures, after Section 13(2) demand notice to liquidate the debt with 60 days and on failure to pay, the bank issued possession notice under Section 13(4) of the Act proceeding for sale of secured asset initiated by fixing the auction date 27.04.2016 at 10.30 a.m. to 11.30 a.m. The debt due as per the auction cum sale notice under Section 8(6) read with Rule 9(1) of S.I.(E) Rules, 2002, is Rs.8,78,112/-, which is due together with subsequent interest, securitization costs and charges from 16.03.2016 onwards.

2. Though the learned counsel for the petitioner-borrower raised several other contentions, impugning the same, on no tenable grounds to consider, ultimately it is submitted that the petitioner-borrower is interested in liquidating the same, but for due to some financial constrains she could not and if some time is being given, the borrower is going to liquidate the debt. It is the submission of the learned counsel for the respondent-secured creditor-bank that the auction process having been initiated by incurring huge costs and expenses and ultimately, the secured debtor cum borrower is liable to pay the same, the process shall be permitted to go on.

2. Having regard to the above, to sub-serve the ends of justice, instead of keeping the writ petition pending with no purpose, the writ petition is disposed of before admission stage while directing the respondent-bank to proceed with the sale as per the date fixed for e-auction on 27.04.2016 and collect 25% from the highest bid amount from the auction purchaser. However, the bank shall not collect remaining 75% of the bid amount and also not to confirm the sale and not to issue sale certificate transferring the security asset for a period of two months from today, subject to the condition of the petitioner/borrower liquidating the debt with interest, incidental charges and expenses due to the bank. If the petitioner-borrower failed to pay the same, the bank can proceed with sale, collect the bid amount, confirm the sale and transfer the property by issuing and registering the sale certificate and deliver possession without any further reference to the court.

3. The writ petition is, accordingly, disposed of. There is no order as to costs. Miscellaneous petitions, if any, in this writ petition, shall closed.

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R.KANTHA RAO, J

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DR. B. SIVA SANKARA RAO, J

Date: 25.04.2016
BSS

HON'BLE SRI JUSTICE R.KANTHA RAO
AND
HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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Writ Petition No.14160 of 2016

(per Hon'ble Dr. Justice B.Siva Sankara Rao)

Date: 25.04.2016

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