HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.7245 of 2016

ORDER: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

Challenging the sale notice published by the respondent/Bank proposing to conduct the sale at 11.30 AM on 11.03.2016, the present writ petition is filed.

The petitioners have availed certain financial assistance from the respondent/Bank, which answers the description of 'Bank' as defined under Section 2(1)(c) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). However, they have committed default in repaying the same. In spite of receiving the notice under Sub Section 2 of Section 13 of the Act, calling upon them to liquidate the liability by providing them 60 days time, the petitioners have not moved. Now, sale by e-auction mode has been published by the respondent/Bank on 03.02.2016 fixing the upset price at Rs.49.00 lakhs. The claim of the petitioners is that the property is worth nearly Rs.1.00 crore and it is sought to be sold away for an under value. We are not at all impressed by this argument. Every borrower tends to inflate the value of the secured asset, while the Banks may undervalue the same. However, we realise that from the notice served under Sub Section 2 of Section 13 of the Act, the petitioners are due nearly Rs.40.00 lakhs as on 07.01.2015 and hence, possibly with the interest added up to date the outstanding liability may be around Rs.50.00+ lakhs. Therefore, the Bank may get satisfied if the e-auction sale fetches it any amount which would help it to liquidate the entire liability and also cover the costs of securitization. At this stage, Sri Prudhvi Raju, learned counsel for the petitioners would urge that the petitioners may be granted time to demonstrate their bona fides by depositing the money to the loan account and save their property. While we are not interested in stopping the e-auction slated for 11.03.2016, however, we direct the respondent/Bank not to confirm the said sale till 02.05.2016 and not to accept the 75% of the bid amount from the best bidder(s) for the sale of the secured asset provided:

1) The petitioners deposit a sum not less than Rs.20.00 lakhs on or before 30.03.2016 and the balance outstanding liability, together with the incidental expenses incurred by the respondent/Bank for undertaking securitization measures and also such an amount which represents interest payable for the money deposited by the auction bidder, be deposited latest by 30.04.2016;

2) Any default committed by the petitioners herein in living up to the above schedule of repayment, the respondent/Bank would be at perfect liberty to proceed further by confirming the sale and accept the balance 75% of the bid amount and then issue a sale certificate followed by delivery of possession of the secured asset to the best bidder(s) without any further reference to this Court.

With this observation, this writ petition stands disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE Dr. B.SIVA SANKARA RAO

04.03.2016
Note: Issue C.C. by 08.03.2016
(B/o)
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