

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No.12989 of 2014

ORDER: (per SK,J)

Heard Sri K.Sai Ram Murthy, learned counsel representing Sri K.V.Subrahmanya Narusu, learned counsel for the petitioner, Sri K.Rusheek Reddy, learned counsel for the finance company, respondents 1 to 3, and Sri Ugra Narasimha, learned counsel for the auction purchaser, the fourth respondent.

This writ petition was filed with the following prayer:

'for the reasons stated in the accompanying affidavit, it is hereby prayed that this Court may be pleased to issue an order or direction, more in the nature of writ of mandamus, declaring the order dated 03.03.2014 passed in Application No.165 of 2013 in Appeal No.92 of 2013/1795 on the file of the Debts Recovery Appellate Tribunal, Kolkata, insofar as directing the petitioner to pre-deposit 25% of the amount as contemplated under second proviso to Section 18 of the SARFAESI Act by the end of March, 2014 for the purpose of registration of Appeal as illegal, arbitrary, unjust and unconstitutional and consequently direct the Debts Recovery Appellate Tribunal to register the Appeal No.92 of 2013/1795 and dispose of the same on merits and pass such other and further order or orders as this Court may deem fit and proper in the circumstances of the case.'

By order dated 24.03.2014, this Court took note of the fact that M/s. India Bulls Housing Finance Limited, the first respondent, had not refunded the excess sale consideration which was payable to the petitioner and recorded the submission made on behalf of the first respondent that the excess amount would be released after adjusting the amount towards the loan within three weeks from that day.

It is now stated by Sri K.Sai Ram Murthy, learned counsel, that the excess amount has been refunded and that the petitioner is now in a position to pay the pre-deposit amount of 25% to avail the appellate remedy under Section 18 of the Securitisation and Reconstruction of

Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), before the Debts Recovery Appellate Tribunal, Kolkata.

That being so, we dispose of the writ petition granting two weeks time from today to the petitioner to make the pre-deposit of 25% of the amount due and payable in Appeal No.92 of 2013. The time granted by the Debts Recovery Appellate Tribunal, Kolkata, in its order dated 03.03.2014 passed in Application No.165 of 2013 in Appeal No.92 of 2013 shall stand extended till 30.06.2017. In the event, the deposit is made on or before the said date, the Debts Recovery Appellate Tribunal, Kolkata, shall entertain the appeal and adjudicate the same on merits in accordance with law. All issues are left open.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE GUDI SEVA SHYAM PRASAD

Date: 16.06.2017

Note: Furnish C.C. in two days.

(B/o)

GJ