

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

WRIT PETITION No.15173 of 2016

ORDER: (per SK,J)

Heard Sri K.Sridhar, learned counsel representing Sri P.Sri Harsha Reddy, learned counsel for the petitioners, and Sri Mohammed Habibullah, learned counsel for the Syndicate Bank.

This writ petition was filed assailing the action of the respondent bank in issuing the auction sale notice dated 31.03.2016 fixing the date of auction as 25.04.2016 and thereafter, issuing corrigendum dated 13.04.2016 postponing the auction to 04.05.2016 in relation to the secured assets which were proposed to be put to sale by it. The ground of challenge was that this action was contrary to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') and the Security Interest (Enforcement) Rules, 2002.

By order dated 28.04.2015, this Court granted interim stay of further proceedings pursuant to the impugned auction sale notice and corrigendum.

Sri Mohammed Habibullah, learned counsel, would fairly concede that the steps sought to be taken by the respondent bank were in violation of the procedural mandate as affirmed by the Supreme Court in *MATHEW VARGHESE V/s. M.AMRITHA KUMAR*¹. He would further state that by virtue of the interim stay granted by this Court, the proposed auction sale did not take place.

¹ (2014) 5 SCC 610

In that view of the matter, the bank cannot, in any event, proceed on the strength of its earlier auction sale notice and corrigendum. However, as the same were issued admittedly in violation of the procedural norms, they are liable to be set aside.

The writ petition is accordingly allowed setting aside the impugned auction sale notice dated 31.03.2016 and the corrigendum dated 13.04.2016. This order shall however not preclude the bank from initiating measures afresh in accordance with the procedure laid down by law in relation to the proceedings initiated by it under the SARFAESI Act.

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:14.07.2017

GJ

