

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI**

Writ Petition Nos.25472 and 25481 of 2017

COMMON ORDER: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

The proceedings, under challenge in these Writ Petitions, is e-auction notice dated 19.07.2017 published on 20.07.2017 proposing to put the subject properties to sale by public auction on 23.08.2017. While the petitioner, in the affidavit filed in support of the Writ Petitions, has referred to his having invoked the jurisdiction of the Debts Recovery Tribunal, Visakhapatnam against the notice issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the "SARFAESI Act" for short), Sri T.V.S.Prabhakar Rao, Learned Counsel appearing on behalf of the respondent-Bank, would submit that, in the affidavit filed in support of the present Writ Petitions, the petitioner has suppressed the fact that he had given an undertaking, to the Debts Recovery Tribunal, to pay the entire amount within a specified time frame; and he failed to comply with such an undertaking.

On the other hand, Sri V.V.Satish, Learned Counsel appearing on behalf of the petitioner, would submit that, since the proceedings under challenge in these Writ Petitions is the subsequent e-auction notice and the petitioner has referred to his having invoked the jurisdiction of the Debts Recovery Tribunal and that a conditional order was passed in such proceedings, his failure to refer to the undertaking, given by him before the Debts Recovery Tribunal, in the Writ affidavit is not a material fact; and failure to refer to such facts would not justify dismissal of these Writ Petitions.

It is wholly unnecessary for us to dwell on this aspect as the petitioner has filed an affidavit dated 07.08.2017 undertaking to pay a sum of Rs.7,25,48,447/- (the sum due and payable by the petitioner as referred to in the e-auction notice); and that he undertook to clear the debt of the respondent-Bank by 10.10.2017. The petitioner undertook to pay Rs.3.00 Crores on 12.09.2017, and the balance debt on 10.10.2017.

In the light of the undertaking affidavit submitted to this Court, we consider it appropriate to direct the respondent-Bank not to take any coercive steps for the sale of the subject properties, provided the petitioner adhered to the aforesaid undertaking furnished to this Court. While failure on the part of the petitioner to abide by his undertaking may amount to civil contempt necessitating action being initiated against him under the Contempt of Courts Act, we make it clear that failure on the part of the petitioner to pay the 1st instalment of Rs.3.00 Crores by 12.09.2017, or the balance debt by 10.10.2017, would enable the respondent-Bank to proceed to put the subject properties to sale.

Both the Writ Petitions are, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

J. UMA DEVI, J

Date:29.08.2017.
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