

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

WRIT PETITION No. 1485 of 2016

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

The petitioner is the guarantor in relation to the loan facilities advanced by the Kotak Mahindra Bank Limited to the principal borrower. This writ petition was filed by him assailing the measures initiated by the Kotak Mahindra Bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, in relation to his property which was offered as a security interest. The demand notice dated 05.11.2015 and the possession notice dated 11.01.2016 issued by the Bank in relation to the said property were also subjected to challenge.

By order dated 20.01.2016, this Court took note of the submission made by the learned counsel for the petitioner that the market value of the property, which was given as security, was Rs.35,44,080/- as per the downloaded copy of the Market Value Certificate dated 12.01.2016 and accordingly directed the Bank not to take further steps to sell the property subject to the condition that the petitioner deposited the sum of Rs.35,44,080/-.

Sri Ambadipudi Satyanarayana, learned counsel for the petitioner, would state that the conditional interim order has been complied with.

Sri Vedula Srinivas, learned counsel for the Kotak Mahindra Bank, would however state that the petitioner approached this Court only because the Presiding Officer of the Debts Recovery Tribunal, Visakhapatnam, had retired and there was no regular Presiding Officer (paragraph 6 of the writ affidavit) and point out that the Tribunal at

Visakhapatnam is now functioning normally as a regular Presiding Officer has been appointed thereto.

In that view of the matter, we are of the opinion that it would be more appropriate for the petitioner to invoke the statutory remedy available to him before the jurisdictional Debts Recovery Tribunal.

Leaving it open to the petitioner to do so, this writ petition is dismissed. Suffice it to state that the Kotak Mahindra Bank and the Debts Recovery Tribunal shall take due note of and give proper credit to the sum of Rs.35,44,080/- deposited by the petitioner in terms of the interim order passed in this writ petition.

Pending Miscellaneous Petitions shall also stand dismissed. No order as to costs.

Date: 29.06.2017

JUSTICE SANJAY KUMAR

va

JUSTICE GUDI SEVA SHYAM PRASAD

