THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.16995 of 2017

ORDER: (per SK,J)

The petitioner is the guarantor for the Cash Credit facility availed by the third respondent from the State Bank of India, the first respondent. As the third respondent committed default in repayment of his dues, proceedings were initiated by the first respondent bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'). Pursuant thereto, e-auction sale notice dated 11.05.2017 was issued under the provisions of the SARFAESI Act read with Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002. The date proposed for e-auction of the secured asset belonging to the petitioner is fixed as 20.06.2017. The petitioner claims that she already paid a sum of Rs.3,00,000/- during the pendency of the proceedings initiated under the SARFAESI Act and that as on date the amount due to the first respondent bank would be in the range of Rs.15,00,000/- only.

Sri P.Ravi Shanker, learned counsel for the petitioner, would submit that if sufficient time is given to his client, the entire outstanding dues of the first respondent bank would be cleared and that it would not be necessary to put the secured asset belonging to his client to sale.

Having heard Sri Siva Reddy, learned Standing Counsel for the first respondent bank, we are of the opinion that the petitioner, being the owner of the secured asset, should be given sufficient time to prove her *bona fides* in clearing the outstanding dues of the first respondent bank. At the same time, the bank's interest would also need to be protected. To strike a balance between these rival interests, we are of the opinion that the writ petition deserves to be disposed of with the following directions.

i) The petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with the first respondent bank on or before 20.06.2017.

ii) In the event such deposit as aforestated is made, the first respondent bank shall not confirm the same, if any, which materialises out of the e-auction proposed to be held on 20.06.2017, till 05.07.2017.

iii) The petitioner shall deposit the entire balance outstanding dues along with interest, expenses and costs, if any, on or before 05.07.2017.

iv) If the petitioner fails to deposit the balance outstanding amount due as aforestated along with interest, expenses and costs, if any, by 05.07.2017, the first respondent bank would be at liberty to confirm the sale in favour of the auction purchaser, if any, in accordance with the due procedure.

As this order has passed without any adverse impact upon the third respondent, the borrower, who is no other than the son of the petitioner, we do not deem it necessary to put him on notice.

The writ petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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JUSTICE SANJAY KUMAR

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JUSTICE GUDISEVA SHYAM PRASAD

Date:01.06.2017
GJ