HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION NO.11587 OF 2017

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

The action of the respondents in putting the subject property to sale is questioned in this Writ Petition as falling foul of Section 31(i) of the SARFAESI Act. Section 31(i) of the Act makes the provisions of the SARFAESI Act not applicable to any security interest created in agricultural lands; and, consequently, a proclamation of sale cannot be issued, under the SARFAESI Act, for sale of agricultural land.

Sri B.S. Prasad, Learned Standing Counsel for the respondent-bank, would submit that the proclamation of sale, in the present case, is not under the SARFAESI Act, but under the Recovery of debts due to Banks and Financial Institutions Act, 1993; on a certificate being issued under the said Act by the Debt Recovery Tribunal, the Recovery Officer has issued a proclamation of sale; and unlike the provisions of the SARFAESI Act, the RDDB Act does not prohibit the sale of agricultural lands for recovery of the amounts due to banks.

When this was pointed out to Sri N. Prashanth, Learned Counsel for the petitioner, he requested this Court to grant the petitioner some time for repayment of the amount due on the ground that, in terms of the OTS settlement offered to them, the petitioner has time till the end of July, 2017 to pay the dues; and it would suffice if, in the interregnum, the bank is directed not to take any coercive steps for recovery of the amount due. Sri B.S. Prasad, Learned Counsel for the respondent-bank would draw our attention to the OTS offer made to the petitioner to submit that 5% of the OTS amount was required, thereunder, to be paid upfront by the petitioner before 31.01.2017, for them to be extended the benefit of the one time settlement. It is not in dispute that the petitioner has failed to make that upfront payment.

While the submission of Sri N. Prashanth, Learned Counsel for the petitioner, is that the petitioner was unwell, having suffered a heart ailment, when the amount was to be paid, the question whether the OTS benefit, granted by the respondent-bank, to the petitioner earlier should be extended further or not, are all matters for the respondent-bank to decide. Suffice it to observe that dismissal of this Writ Petition shall not disable the petitioner from making an application to the bank in this regard, and for the bank to consider the same if it so chooses. The Writ Petition however fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 19.04.2017.
MRKR