

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE MS. JUSTICE J.UMA DEVI**

W.P.No.30769 of 2017

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Challenge in this writ petition filed by the Bank of India, Hyderabad, is to the order dated 08.09.2017 passed by the Debts Recovery Tribunal, Visakhapatnam, in I.A.No.1275 of 2017 in S.A.No.292 of 2017. By the said order, the Tribunal granted stay of all further proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (for brevity 'SARFAESI Act'), pursuant to the sale notice dated 31.07.2017 issued by the Bank proposing to hold the auction sale on 12.09.2017 in respect of the secured assets belonging to respondents 1 and 2 herein subject to their depositing at least 25% of the reserve price amount mentioned in the said sale notice. By virtue of the aforestated interim order granted by the Tribunal, the sale proposed to be held on 12.09.2017 did not materialize.

Smt.Kalpna Ekbote, learned counsel for respondents 1 and 2, would fairly concede that her clients failed to deposit 25% of the reserve price amount as directed by the Tribunal.

Smt. P.Suseela, learned Counsel for the Bank, would state that the entire exercise initiated by the Bank came to naught despite the fact that respondents 1 and 2 did not even comply with the conditional order passed by the Tribunal.

As the order under challenge has worked itself out, no further adjudication is warranted in this writ petition. However, we are constrained to observe that when the Tribunal proposes to stall the proceedings initiated by the secured creditor under the SARFAESI Act, it must verify the *bona fides* of the petitioning borrower and should not interdict such proceedings for the mere asking. In the present case, having secured stay of the proposed auction sale, respondents 1 and 2 did not abide by the condition which was imposed by the Tribunal. Such conduct on the part of a party must be kept in mind by the Tribunal while dealing with applications on the same lines filed by such party at a later stage in proceedings.

Subject to the above observation, the Writ Petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed in the light of dismissal of the main writ petition. No order as to costs.

SANJAY KUMAR, J

J.UMA DEVI, J

07.11.2017
Gsn.