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

WRIT PETITION No.16536 of 2016

ORDER: (per SK,J)

This writ petition was filed assailing the order dated 12.05.2016 passed by the Debts Recovery Tribunal, Visakhapatnam, in S.A.No.123 of 2016. By the said order, the Tribunal disposed of the application filed by the petitioner under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

The S.A. was filed in relation to the auction sale which was scheduled to be held by the State Bank of Hyderabad on 25.05.2016 pursuant to the auction sale notice dated 22.04.2016 issued by it. The Tribunal directed the petitioner to pay Rs.40,00,000/- taking note of the fact that the bank had fixed the reserve price of the secured asset proposed to be sold at Rs.36,78,000/-. This amount was to be deposited by the petitioner on or before the date of auction, i.e., 25.05.2016. Upon such payment, the bank was directed to defer/stay the sale and release the property in favour of the petitioner. The petitioner was further directed to pay the balance dues along with expenses and costs within three months, failing which, the bank was held entitled to take suitable steps for recovery of the same as per law. In the event of default by the petitioner in paying the sum of Rs.40,00,000/- on or before the date of the sale, the Tribunal granted liberty to the bank to go ahead with the sale of the property as per law. Aggrieved by the requirement imposed upon him to deposit the sum of Rs.40,00,000/-, the petitioner approached this Court.

By order dated 19.05.2016, this Court directed the respondent bank not to confirm the sale, if any, held on 25.05.2016 subject to the petitioner depositing one-third of the amount due to the respondent bank before the date of the auction. Thereafter, by order dated 26.05.2016, this Court took note of the fact that the petitioner had already deposited Rs.10,00,000/- on 24.05.2016 and granted him one week's time from that day to deposit the balance out of the one-third amount due to the bank. Memo dated 10.06.2016 was filed by the petitioner detailing the amounts deposited pursuant to the aforestated orders passed by this Court. Rs.10,00,000/- was deposited by him on 24.05.2016 and thereafter, Rs.6,00,000/- was deposited on 31.05.2016. The conditional interim order granted by this Court therefore stood complied with.

Despite service of notice, the State Bank of Hyderabad did not choose to enter appearance before this Court through learned counsel.

Sri S.V.S.S.Siva Ram, learned counsel for the petitioner, would inform this Court that the auction sale scheduled to be held on 25.05.2016 was not held by the respondent bank.

In the light of the aforestated facts, we are of the opinion that the cause in this writ petition no longer survives for consideration. S.A.No.123 of 2016 filed by the petitioner before the Debts Recovery Tribunal, Visakhapatnam, was in the context of the proposed auction sale to be held by the State Bank of Hyderabad on 25.05.2016. The said sale is stated to have come to naught by virtue of the interim order granted by this Court. The petitioner is admittedly due and liable to pay the balance two-third of the outstanding amount along with accrued interest thereon to the respondent bank.

Sri S.V.S.S.Siva Ram, learned counsel, would state that the respondent bank has already filed a O.A. under the provisions of the Recovery of Debts due to Banks and Financial Institutions Act, 1993, now re-named as the Recovery of Debts and Bankruptcy Act, 1993. In any event, it is for the respondent bank to take effective measures for realisation of its dues from the petitioner.

Leaving it open to the respondent bank to do so in accordance with law, the writ petition is closed.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

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JUSTICE SANJAY KUMAR

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JUSTICE GUDISEVA SHYAM PRASAD

Date:14.07.2017

GJ