

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI**

Writ Petition No.28034 of 2017

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

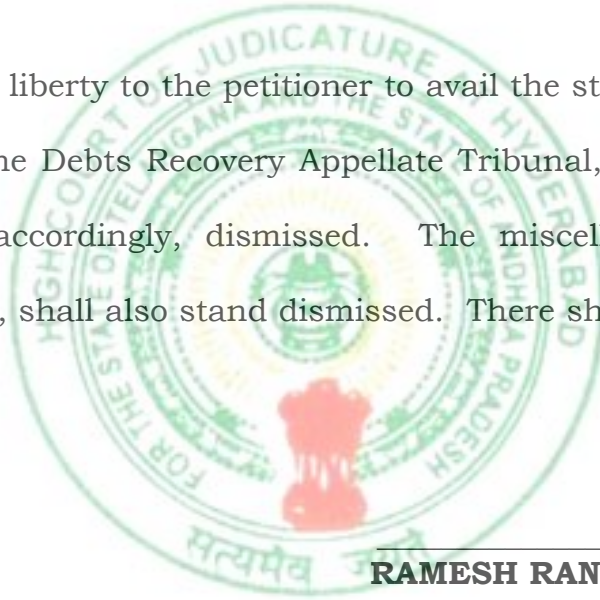
In this Writ Petition the validity of the order of the Debts Recovery Tribunal, Visakhapatnam, in S.A.No.253 of 2017 dated 04.08.2017, is subjected to challenge. The petitioner herein filed S.A.No.253 of 2017 to set aside the measures initiated by the 2nd respondent-Bank against the subject schedule properties; and to declare the sale notice, proposing to sell the subject properties on 21.07.2017, as illegal and arbitrary.

In the order, impugned in this Writ Petition, the Debts Recovery Tribunal noted that earlier, on 26.04.2017, the respondent-Bank had issued a sale notice and fixed the e-auction on 31.05.2017 with a reserve price of Rs.1,38,25,000/-; as there were no bidders, the auction was not conducted on 31.05.2017; the petitioner did not raise any objection nor did he file any S.A. before the Tribunal, before the auction was held on 31.05.2017, contending that the reserve price, fixed by the respondent-Bank, was very low; and it is only after the subject property was sold on 21.07.2017 for a sum of Rs.1,54,25,000/- (which is more than the reserve price of Rs.1,38,25,000/-), that the present S.A was filed to delay further proceedings.

The Tribunal observed that, on 26.04.2017, Rule 8(6) notice was issued fixing the e-auction on 31.05.2017; the applicant had acknowledged the same; and it was evident, from the documents filed by the respondent-Bank, that they had followed the procedure contemplated under the SARFAESI Act and the Rules made thereunder.

While the submission of Sri Dishit Bhattacharjee, Learned Counsel for the 2nd respondent-Bank, that the very same valuation, as fixed in the e-auction notice for the auction held on 31.05.2017, was not questioned by the petitioner; and he has chosen to question the very same valuation only in the subsequent e-auction notice, for the auction held on 21.07.2017 has considerable force, it is wholly unnecessary for us to dwell on this aspect, as the petitioner has an effective alternative statutory remedy of an appeal, against the order passed by the Debts Recovery Tribunal, to the Debts Recovery Appellate Tribunal. We see no reason, therefore, to entertain this Writ Petition.

Granting liberty to the petitioner to avail the statutory remedy of an appeal to the Debts Recovery Appellate Tribunal, the Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



RAMESH RANGANATHAN, ACJ

J. UMA DEVI, J

Date:29.08.2017.
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