

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

WRIT PETITION NO.9484 of 2015

ORDER: (per SK,J)

This writ petition was filed with the following prayer:

'For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court be pleased to issue a Writ of Mandamus to declare the Auction notice dated 25.02.2015 issued by Respondent No.2 proposing sale of agricultural land by inviting sealed tenders to the properties as illegal, arbitrary and violative of the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act. 2002 r/w Security Interest (Enforcement) Rules. 2002 and in violation of article 14. 21 and 300-A of Constitution of India, and contrary to RBI instructions and further to set aside the same.'

By order dated 30.04.2015, this Court observed that while it saw no reason to restrain the respondent, Bank of India, from issuing a sale certificate and executing a conveyance deed, any action taken by the bank would be subject to further orders in the miscellaneous petition. It is not in dispute that the auction sale held on 31.03.2015 pursuant to the impugned auction notice dated 25.02.2015 materialised in a sale, which was confirmed on 10.08.2015, and possession was also delivered to the auction purchaser thereafter.

Though Sri N.Vijay, learned counsel for the petitioners, would seek leave to amend the prayer in the writ petition basing on these developments, we are of the opinion that as it was instituted long before the aforestated developments, it would be more appropriate for the petitioners to avail a fresh remedy in accordance with law, be it before the jurisdictional Debts Recovery Tribunal or this Court. This liberty is granted keeping in mind the order dated 30.04.2015 passed by this Court making all actions by the respondent bank subject to further orders to be passed in this writ petition. The time consumed by the petitioners in pursuing

this writ petition shall be taken into account by the jurisdictional Debts Recovery Tribunal in the event the petitioners approach it while computing the limitation aspect. All issues are left open.

The writ petition is accordingly closed with the liberty aforestated.

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

SANJAY KUMAR,J

J.UMA DEVI,J

Date:15.11.2017

GJ

