

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

WRIT PETITION No.28329 of 2017

ORDER: (per Justice Sanjay Kumar)

Despite the matter being adjourned from yesterday to today and appearing under the caption 'for orders', a further request is made on behalf of Sri Parsa Ananth Nageswar Rao, learned counsel for the petitioner, for an adjournment. We are, however, not inclined to grant an adjournment in the light of the facts set out hereunder:

The prayer of the petitioner in this case reads as under:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the respondent in issuing E auction sale notice dated 27.07.2017 as being illegal, arbitrary, violative of Articles 14, 21 and 300(A) of the Constitution of India besides violative of principles of natural justice and contrary to the provisions of SARFAESI Act and rules made thereunder and consequently set aside the same and pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Sri M.Narender Reddy, learned senior counsel representing Sri M.Srikanth Reddy, learned counsel for the State Bank of India, the first respondent, would inform this Court that the e-auction sale held on 23.08.2017 pursuant to the impugned e-auction sale notice dated 27.07.2017 was successful and the sale was knocked down in favour of the highest bidder who paid the entire sale consideration of Rs.10,10,00,000/-.

We find that no steps were taken by the petitioner to assail the sale before this Court but an implead petition was filed in this writ petition seeking to implead the auction purchaser. This implead petition is yet to be numbered and a copy of the same was placed before this Court by Sri M.Narender Reddy, learned senior counsel.

Surprisingly, in the third paragraph of the affidavit filed in support of the implead petition, the petitioner stated that an application was filed before the jurisdictional Debts Recovery Tribunal to set aside the auction sale. This fact, stated by the petitioner itself on oath, demonstrates that it has already availed the statutory remedy under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It would therefore not be open to the petitioner to simultaneously pursue two remedies.

Be it viewed from any angle, this writ petition, as framed, does not survive for consideration on merits and is accordingly dismissed.

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

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 08.11.2017
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