

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M. GANGA RAO

Writ Petition No.32453 of 2017

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The relief sought for in this Writ Petition is to declare the action of the Debts Recovery Tribunal-II, Hyderabad in not passing any orders in I.A.No.2707 of 2017 in S.A.No.1311 of 2017 wherein the applicant had sought extension of time, for payment of 10% of the outstanding total amount due to the 1st respondent, for a period of two weeks in furtherance of the orders passed by the Debts Recovery Tribunal-II, Hyderabad on 08.09.2017, as arbitrary and illegal.

The petitioner herein filed S.A.No.1311 of 2017, under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the "SARFAESI Act"), before the Debts Recovery Tribunal-II, Hyderabad. He filed I.A.No.1939 of 2017 in S.A.No.1311 of 2017 seeking stay of all further proceedings, pursuant to the warrant issued to the advocate-commissioner, in CrI.M.P.No.462 of 2017 on the file of the Chief Metropolitan Magistrate, Cyberabad, Ranga Reddy District at L.B.Nagar, under Section 14 of the SARFAESI Act.

By its order in I.A.No.1939 of 2017 dated 08.09.2017, the Debts Recovery Tribunal-II, Hyderabad granted interim stay on condition that the petitioner deposited 20% of the outstanding balance in two equal instalments – the first instalment of 10% to be deposited within a week from the date of the order, and the

second instalment of 10% to be deposited within two weeks thereafter. The Debts Recovery Tribunal made it clear that, failing compliance of deposit of any of the instalments, the respondent-Bank was at liberty to proceed further as per law.

As a result of the order of the Debts Recovery Tribunal, the petitioner was required to deposit 10% of the outstanding balance on or before 15.09.2017, and the second instalment of 10% on or before 29.09.2017. The petitioner has, admittedly, not paid a single rupee pursuant to the interim order passed by the Debts Recovery Tribunal in I.A.No.1939 of 2017. He claims to have filed an application, in I.A.No.2707 of 2017, seeking extension of time for payment of 10% of the outstanding amount by a period of two weeks from the date of the application i.e. on 16.09.2017. The period sought for, in I.A.No.2707 of 2017, also expired by 30.09.2017, and it is not in dispute that the petitioner has not paid a single rupee even within the extended time sought by them.

An affidavit is now filed before this Court undertaking to pay the entire 20% of the outstanding balance on or before 07.11.2017. The past conduct of the petitioner, in not paying even a single rupee pursuant to the interim order passed by the Debts Recovery Tribunal, does not inspire confidence of his abiding by his undertaking to pay the entire 20% amount by 07.11.2017. In any event these are all matters which, the petitioner is required to canvass in the application filed by him, seeking extension of time, before the Debts Recovery Tribunal. We see no reason to exercise discretion under Article 226 of the Constitution of India to extend time for payment of 20% of outstanding balance amount, which

the DRT had, by its order dated 08.09.2017, directed the petitioner to pay the respondent-Bank.

The Writ Petition fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

Date:16th October, 2017
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