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

<u>WRIT PETITION No.1449 of 2017</u>

<u>ORDER:</u> **(per SK, J)**

This Writ Petition was filed assailing the order dated 06.09.2016 passed by the Debts Recovery Tribunal, Visakhapatnam, in I.A.No.498 of 2016 in S.A.No.200 of 2016.

It is an admitted fact that the petitioner society availed a loan to the tune of Rs.3,00,00,000/- from the State Bank of Hyderabad in the year 2011. As it committed default in repayment thereof, the bank issued a demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, on 08.06.2016. Thereafter, auction notice dated 03.12.2016 was issued by the bank proposing to hold the sale of the secured property on 04.01.2017. Aggrieved by this development, the petitioner society filed S.A.No.200 of 2016 before the Debts Recovery Tribunal, Visakhapatnam. By order dated 06.09.2016 passed in I.A.No.498 of 2016 filed therein by the petitioner society, the Tribunal took note of the prayer made by the counsel for the petitioner society and granted two months time to it to pay the entire dues. The petitioner society was to pay 50% of the dues i.e. Rs.70,00,000/- by the end of September, 2016 and the balance dues by the end of October, 2016. In the event the petitioner society failed to pay the first instalment, the bank was given liberty to proceed further in the matter as per rules.

By order dated 06.01.2017, this Court took note of the fact that the petitioner society was running an old-age home and deaf and dumb school and accordingly granted interim stay of all further proceedings subject to the condition that the petitioner society deposits at least the first instalment as directed by the Tribunal within four weeks.

Sri A. Krishnam Raju, learned standing counsel for the State Bank of Hyderabad, would inform this Court that the petitioner society failed to comply with the aforestated order.

Sri S.S. Bhatt, learned counsel for the petitioner society, would submit that if the bank is permitted to take action against the secured asset, it would adversely affect the old-aged people and deaf and dumb persons who are availing the facilities offered by the petitioner society.

We are not inclined to accept his submission as it is not open to the petitioner society to use this as a shield to ward off its admitted liability to the State Bank of Hyderabad. That apart, in the light of the law laid down by the Supreme Court in **M/s. Prestige Lights Limited vs State Bank of India**[1], failure to comply with the conditional interim order entails fatal consequences, though, not in each and every case.

In the present case, we are of the opinion that the petitioner society has been shown sufficient indulgence. Despite the same, it has not taken any steps to deposit at least the first instalment of the amount due as per the Tribunal's order.

The Writ Petition therefore does not warrant consideration on merits and is accordingly dismissed. Interim order dated 06.01.2017 shall stand vacated.

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

SANJAY KUMAR, J

14th JUNE, 2017.

GUDISEVA SHYAM PRASAD, J

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[1] (2007) 8 SCC 449