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

WRIT PETITION NO.37868 of 2017

ORDER: (per SK,J)

Challenge in this writ petition is to the demand notice dated 05.01.2017 issued by the Bank of India under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), on the ground that it was not served upon the petitioner. The sale notice dated 04.10.2017 issued by the bank under Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules of 2002'), is also assailed.

The Bank of India filed a counter-affidavit along with supporting material.

Perusal thereof reflects that the demand notice dated 05.01.2017 under 13(2) of the SARFAESI Act was addressed to the petitioner at the permanent address furnished by her. That was returned with the endorsement 'no person with this name is residing in this village hence after seven days returned to sender.' In the light of the failure of service of the demand notice upon the addressee, the petitioner herein, by conventional means, the bank resorted to publication of the notice in Hans India newspaper on 15.05.2016 in terms of Rule 3 of the Rules of 2002.

Sri Ponnam Ashok Goud, learned counsel for the petitioner, would however contend that the petitioner had executed a power of attorney in favour of one Kompelli Srinivas Reddy and that this was within the knowledge of the bank. He would therefore assert that the bank ought to have served the demand notice upon the said GPA holder.

Countering this argument, Smt.V.Dyumani, learned counsel for the bank, would point out that the power of attorney executed by the petitioner in favour of the said Kompelli Srinivas Reddy was only for the purpose of securing the loan from the bank and to create a mortgage over her properties. The said GPA holder was not empowered to receive any notice on behalf of the petitioner in the event proceedings under the SARFAESI Act were initiated.

Upon perusal of the Power of Attorney for Term Loan document placed on record by the bank, we find it to be so.

As regards the second ground taken by the petitioner with regard to the guarantee offered by her being limited only to the extent of the secured asset, Smt.V.Dyumani, learned counsel, would point out that the deed of guarantee executed by the petitioner was for the entire extent of the loan and was not limited. This contention also therefore does not merit acceptance.

Smt.V.Dyumani, learned counsel, would further point out that though the sale notice dated 04.10.2017 issued by the bank was subjected to challenge by way of this writ petition, the secured asset offered by the petitioner was not brought to sale thereunder. Sri Ponnam Ashok Goud, learned counsel, does not deny this aspect of the matter.

In the light of the above, we find no grounds to interfere with the action initiated by the Bank of India under the SARFAESI Act.

The writ petition is devoid of merit and is accordingly dismissed.

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

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SANJAY KUMAR,J

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J.UMA DEVI,J

Date:20.12.2017

GJ