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

WRIT PETITION No.35459 of 2017

ORDER: (per Justice Sanjay Kumar)

The Indian Bank, Guntur, the petitioner, assails the order dated 25.09.2017 passed by the Debts Recovery Tribunal, Visakhapatnam, in I.A.No.1342 of 2017 in S.A.No.304 of 2017.

Personal service by registered post with acknowledgment due having been permitted, Sri Ambadipudi Satyanarayana, learned counsel for the petitioner bank, took out notice to the sole respondent and filed proof of service along with the returned envelope which bears the endorsement that the addressee refused to receive the same. This would amount to deemed service and as the sole respondent did not choose to enter appearance before this Court even thereafter either in person or through learned counsel, the matter is amenable to final resolution upon hearing the arguments of Sri Ambadipudi Satyanarayana, learned counsel.

In terms of the demand notice issued by the petitioner bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the amount due from the respondent as on 31.12.2016 stood at Rs.96,76,31,812/-.

Sri Ambadipudi Satyanarayana, learned counsel, would state that it is in excess of Rs.102.00 crores as on date.

While so, perusal of the order under challenge reflects that the Tribunal, without even referring to the total liability of the respondent, accepted his plea in I.A.No.1342 of 2017 in S.A.No.304 of 2017 to stay all further proceedings pursuant to the sale notice dated 24.08.2017 and restrained the bank from going ahead with the sale proposed to be held on 29.09.2017 pursuant to the said sale notice by merely imposing a condition that the respondent herein should deposit at least Rs.8.00 crores within three months from the date of the said order. As the petitioner bank could not take steps pursuant to the sale notice dated 24.08.2017 on the date of the proposed sale by virtue of the restraint order passed by the Tribunal, the said notice can no longer be acted upon.

However, interdicting the bank from taking further steps for a period of three months by requiring the respondent herein to make the deposit of a paltry sum of Rs.8.00 crores when the total liability was in excess of Rs.102.00 crores cannot be countenanced. Exercise of discretion by the Tribunal while granting interim relief needs to be judicious and in keeping with the facts and circumstances of the case. When the liability of the respondent stood at such an exorbitant figure, grant of interim relief by requiring him to pay less than 10% thereof is not judicious exercise of discretion by the Tribunal by any standards.

The order under challenge is accordingly set aside leaving it open to the petitioner bank to take appropriate measures in accordance with law for realising its dues in the event there is no restraint order preventing it from doing so.

The writ petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 06.11.2017
PGS