

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

WRIT PETITION No.42283 of 2017

ORDER: (per Justice Sanjay Kumar)

Challenge in this writ petition is to the order dated 06.12.2017 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.No.3359 of 2017 in S.A.No.1462 of 2017. The said I.A. was filed by the petitioner herein seeking stay of all further proceedings, including taking possession of the petition schedule property by the State Bank of India, the first respondent herein, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), pursuant to the order dated 22.09.2017 passed by the learned Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.3757 of 2017. The Tribunal dismissed the said I.A. by the docket order dated 06.12.2017. Aggrieved thereby, the petitioner is before this Court.

During the course of hearing, Sri B.Chandrasen Reddy, learned counsel for the petitioner, made a proposal to the effect that his client should be permitted to retain the possession of the secured asset, being the house bearing No.8-2-293/82/F-II/B-27 in Sy.No.403, Shaikpet, Jubilee Hills, Hyderabad, but the first respondent bank may proceed with further measures under Section 13(4) of the SARFAESI Act. He would submit that his client would also participate in the auction sale being held by the bank in relation to the secured asset and in the event he emerges as the highest bidder, the controversy would be set at naught. Learned counsel would fairly state that in the event the petitioner does not emerge as the highest bidder in the said auction sale, he would vacate the premises of the secured asset and deliver vacant possession to the bank so that it can be made over to the highest bidder. Undertaking affidavit dated 18.12.2017 was filed by the petitioner, wherein he stated as under:

“3. I hereby undertake to participate in the auction proceedings to be conducted by the respondent bank at any date, if I am the successful bidder, I would comply with the terms and conditions of the auction and in case if I am unsuccessful, I would vacate the subject property within a period of 30 days thereafter.”

Sri Maruthi Jadhav, learned counsel representing Sri B.S.Prasad, learned counsel for the first respondent bank, would further state that as the bank would have to allow the prospective bidders to visit and verify the premises of the secured asset being put to sale, the petitioner shall cooperate with the bank in doing so.

Sri Eshwar, learned counsel representing Sri B.Chandrasen Reddy, learned counsel for the petitioner, concedes that the petitioner would allow the bank and the prospective bidders to enter upon the premises of the secured asset for the purpose of such verification.

The writ petition is accordingly disposed of permitting the petitioner to retain the possession of the secured asset subject to the aforestated undertaking. It is further made clear that in the event the petitioner fails to abide by the undertaking affidavit filed by him, if the need arises, it would be open to the bank to take further proceedings pursuant to the order dated 22.09.2017 passed by the learned Chief Metropolitan Magistrate, Hyderabad, in Cr.I.M.P.No.3757 of 2017 without having to initiate fresh measures under Section 13(4) of the SARFAESI Act.

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: 20.12.2017
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