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

WRIT PETITION NO.43719 OF 2017

O R D E R

(*Per Hon'ble Sri Justice Sanjay Kumar)*

The petitioner calls in question the order dated 19.12.2017 passed by the Debts Recovery Tribunal-II, Hyderabad, in I.A.No.3526 of 2017 in S.A.No.1485 of 2017. The said application was filed by the petitioner seeking stay of all further proceedings, including dispossession from the petition schedule property, pursuant to the e-auction sale notice dated 09.11.2017 issued by India Bulls Housing Finance Limited, the respondent herein, proposing to put the secured asset to sale on 21.12.2017.

By the order under challenge, the Tribunal permitted the proposed sale to go on but directed the respondent company not to register the sale certificate in favour of the highest bidder subject to the petitioner herein depositing 30% of the outstanding dues in two instalments—the first instalment of 15% to be deposited within 10 days from the date of the order and the second instalment of 15% within two weeks thereafter.

Heard Sri U.Shanthi Bhushan Rao, learned counsel for the petitioner, and Sri K.V.Rusheek Reddy, learned counsel appearing for the respondent.

Though we find no grounds to interfere with the discretion exercised by the Tribunal in granting the conditional interim order, Sri Shanthi Bhushan Rao, learned counsel, would assert that the Tribunal did not give sufficient time to the petitioner to prove his *bonafides* by making the deposit in terms of the order as the

Tribunal, in all, granted less than a month to the petitioner to make a substantial deposit which would be aggregating to Rs.1.00 crore.

We find merit in this submission. Keeping in mind the largeness of the sum involved, the Tribunal ought to have been a little more liberal in fixing the time stipulations to enable the petitioner to prove his *bonafides*. As the sale is proposed to be held tomorrow and the statutory time stipulations mentioned in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 also need to be kept in mind, we are of the opinion that the petitioner must necessarily deposit the first instalment of 15% of the total outstanding dues within 10 days from 19.12.2017. But as regards the second instalment of 15%, the petitioner is given four weeks time thereafter to make the said deposit. In the event the petitioner fails to make either of the aforestated deposits, the respondent company is at liberty to proceed further in the matter and register the sale certificate in favour of the highest bidder in the auction proposed to be held tomorrow without further reference to either the Tribunal or this Court.

The writ petition is accordingly disposed of. 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

20th DECEMBER, 2017

<u>Note:</u> Issue C.C. by tomorrow.
B/o Svv