HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION Nos.2922, 2980, 3004, 3011
and 3079 of 2018

COMMON ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The petitioners in these writ petitions seek to assail the individual notices issued by the State Bank of India under Rule 8(5) & (6) of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules of 2002'). By the said notices, the bank informed the petitioners, the borrowers, that in the event the amounts due in terms of the respective demand notices issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, were not paid within thirty days, the properties mortgaged to the bank would be sold in auction by inviting tenders/quotations from the public.

Sri P.Rama Sharana Sharma, learned counsel for the petitioners in these cases, would submit that as quotations were sought to be invited, it is possible that the bank would take recourse to Rule 8(5)(a) of the Rules of 2002 and the petitioners would not be aware of the reserve price fixed by the bank for sale of the secured assets.

It may be noted that Rule 8(5)(a) of the Rules of 2002 permits sale of the secured assets by obtaining quotations from the persons dealing with similar secured assets or otherwise interested in buying such assets. It is therefore by way of a private transaction. However, the impugned notices issued under Rule 8(5) and (6) of the Rules of 2002 clearly indicate that the bank proposes to sell the secured assets in auction by inviting tenders/quotations from the public. Therefore, the bank seeks to take recourse to Rule 8(5)(b) and (c) of the Rules of 2002, i.e., by inviting tenders from the public or by holding public auction through e-auction mode. Further, the proviso to Rule 8(6) makes it clear that in the event the sale is either by way of inviting tenders from the public or by holding public auction, the bank has to cause publication of the sale notice in terms of Rule 9(1) of the Rules of 2002 in two leading newspapers. In that view of the matter, the apprehension of the petitioners that the sale transaction would be conducted without notice is utterly misconceived.

The writ petitions are accordingly dismissed taking note of the fact that the bank proposes to put the secured assets to sale only through the procedure contemplated under Rule 9(1) of the Rules of 2002.

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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T.AMARNATH GOUD, J

Dt: 25.07.2018.
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