THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION No.2921 of 2018

ORDER: (per SK, J)

The Union Bank of India, the petitioner herein, seeks to challenge the order dated 14.09.2017 passed by the Debts Recovery Appellate Tribunal, Kolkata, in Appeal No.31 of 2015 which arose out of the order dated 12.02.2015 passed by the Debts Recovery Tribunal, Hyderabad, in I.A.No.602 of 2015 in S.A.No.88 of 2015 (re-numbered as S.A.No.371 of 2017).

Perusal of the order under challenge reflects that the Tribunal as well as the Appellate Tribunal held to the effect that the notice under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002 (for brevity, 'the Rules of 2002'), and the e-auction sale notice issued under Rule 9(1) of the said Rules must be one month apart. These observations were made in the context of the pre-amended provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act'), and the Rules of 2002. This very view was taken by this Court in M. AMARENDER REDDY v. CANARA BANK. However, in appeal, the Supreme Court overturned this view in CANARA BANK v. M. AMARENDER REDDY[1] and held that there is no mandate that the sale notice under Rule 9(1) should not be issued till expiry of the thirty day period stipulated in the notice under Rule 8(6) of

[1] (2017) 4 SCC 735

the Rules of 2002. These observations were made by the Supreme Court in the context of the un-amended provisions of the SARFAESI Act and the Rules of 2002. As the matter on hand relates to the provisions prior to the amendment, the judgment of the Supreme Court in CANARA BANK (supra) would be squarely applicable.

The writ petition is accordingly allowed setting aside the order dated 14.09.2017 passed by the Debts Recovery Appellate Tribunal, Kolkata, as well as the order dated 12.02.2015 passed by the Debts Recovery Tribunal, Hyderabad, in I.A.No.602 of 2015 in S.A.No.88 of 2015 (re-numbered as S.A.No.371 of 2017). As a word of caution, it may be noted that the amendments to the provisions of the SARFAESI Act and the Rules of 2002 would have to be taken into consideration while applying the law in the post-amendment scenario.

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

SANJAY KUMAR, J

13th JUNE, 2018.

T. AMARNATH GOUD, J

kvni