THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No. 5560 OF 2018

ORDER: (per the Hon'ble Sri Justice Sanjay Kumar)

The petitioners are aggrieved by the docket order dated 08.02.2018 passed by the Debts Recovery Tribunal-1, Hyderabad (for short, "the Tribunal"), in I.A.No.253 of 2018 in S.A.No.23 of 2018. The said S.A. was filed by the petitioners herein assailing the possession notice dated 26.12.2017 issued by the Andhra Bank, the 1st respondent herein, under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, "SARFAESI Act, 2002") read with Rule 8 (1) of the Security Interest (Enforcement) Rules, 2002 (for brevity, "the Rules, 2002"). By the docket order dated 08.02.2018, the Tribunal granted stay of all further proceedings including the dispossession of the petitioners pursuant to the possession notice dated 26.12.2017 subject to the condition that they would deposit 25% of the total outstanding dues as claimed in the possession notice in two instalments – the first instalment of 10% to be deposited within two weeks from the date of the order and the second instalment of 15% within two weeks thereafter. In the event, the petitioners failed to comply with the condition, the Tribunal made it clear that the interim stay would stand vacated and the Bank would be at liberty to proceed further in accordance with law.

Perusal of the impugned possession notice reflects that the total outstanding due as on 03.10.2017, when the demand notice under Section 13(2) of the SARFAESI Act, 2002, was issued stood at Rs.6,73,25,509-50.

In effect, the petitioners had to deposit approximately Rs.1,68,31,376/- within the time stipulated by the Tribunal.

Sri R. Raghunandhan, learned senior counsel representing Sri T.Bala Mohan Reddy, learned counsel for the petitioners, would submit that the time granted by the Tribunal to abide by the conditional order was wholly inadequate given the sum involved.

Smt. V. Dyumani, learned counsel for the Andhra Bank, would submit that the Tribunal exercised its discretion while granting stay of further proceedings at the stage of the possession notice itself and therefore, the petitioners are bound to comply with the order.

We are of the opinion that as the petitioners are required to deposit a fairly large sum of money, the Tribunal ought to have been more liberal in stipulating the time therefor. Needless to state, failure to abide by the conditional order entailed consequences in terms of the said stay order standing withdrawn. However, reasonable time had to be given for compliance with the condition and more so as they were required to deposit a large sum of money.

The writ petition is accordingly disposed of in extending the time for making the deposit of the entire 25% of the total outstanding dues as mentioned in the possession notice dated 26.12.2017 by a period of four weeks. The petitioners shall therefore ensure that the amount to be deposited in terms of the docket order dated 08.02.2018 of the Tribunal shall be paid to the bank before 5.00 p.m. on 20.03.2018. In the event, the petitioners fail to do so, the direction of the Tribunal that the stay shall stand vacated would come into operation and the bank would be at liberty to proceed further in accordance with law. We make it clear that there shall be no extension of time and the petitioners are bound to abide by the aforestated time stipulation and seek no further indulgence. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

SANJAY KUMAR, J

P. KESHAVA RAO, J

Date: 20.02.2018
ES/CCM