

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION NO.6047 OF 2018

ORDER: (per SK,J)

Challenge in this writ petition is to the action of the Union Bank of India in issuing e-auction sale notice dated 25.01.2018 scheduling the auction on 28.02.2018.

Sri V.V.Ramana, learned counsel for the petitioner, would state that the respondent bank merely issued a notice purportedly under Section 13(8) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), and no notice under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules of 2002'), was issued to the petitioner. However, the bank straight away proceeded to publish the e-auction sale notice under Rule 9(1) of the Rules of 2002 scheduling the auction as aforesaid.

Sri Maruthi Jadhav, learned counsel representing Sri B.S.Prasad, learned counsel for the Union Bank of India, having received instructions, would inform this Court that the bank failed to issue the statutory notice under Rule 8(6) of the Rules of 2002 by oversight and published the auction sale notice under Rule 9(1) thereof directly. He would submit that the bank may be permitted to initiate measures afresh in accordance with the due procedure.

In the light of these admissions by the respondent bank, the e-auction sale notice dated 25.01.2018 proposing to auction the secured assets on 28.02.2018 is in clear violation of the statutory scheme of the SARFAESI Act and the Rules framed thereunder.

The writ petition is accordingly allowed setting aside the impugned e-auction sale notice. This order shall however not preclude the respondent bank from initiating measures afresh strictly in accordance with the due procedure laid down by the SARFAESI Act and the Rules framed thereunder for recovering its dues.

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

SANJAY KUMAR,J

Date:27.02.2018

GJ

M.GANGA RAO,J

