

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

WRIT PETITION No.6495 OF 2018

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

The prayer of the petitioners in this case reads as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the auction notification issued by the Respondent No.2 published in newspaper dated 25-01-2018 for auctioning the properties of the Petitioners shown at Item No.2 notifying as Sy.Nos.46 47 and 49 admeasuring 300 sq. yards bearing Plot No.209, Boduppall, Peerzadiguda, Uppal Mandal, R.R. District, as arbitrary, illegal unjust and unconstitutional contrary to the provisions of SARFAESI Act 2002 and consequently call for records and set aside the same and pass such other order or orders as this Hon'ble Court deems fit and proper in the interest of justice.”

It appears that the petitioners are third parties to the transaction between respondents 5 to 7, their vendors, and the Union Bank of India, pursuant to which the said Bank initiated recovery proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), culminating in the auction sale notice published on 25.01.2018 proposing to hold the auction sale on 28.02.2018. Challenge in this writ petition is directed against the said sale notice.

Sri Maruthi Jadhav, learned counsel representing Sri B.S.Prasad, learned counsel for the Union Bank of India, would state that the transaction under which the petitioners are asserting rights is directly hit by Section 13(13) of the SARFAESI Act. He would further state that though the last date for submission of the bids is already over, in the event the petitioners wish to participate in the auction sale scheduled to be held tomorrow i.e., 28.02.2018, he would advise the Bank to accept

the petitioners' bid immediately so that they can participate in the proposed auction. He would further state that no bids have been received in response to the aforestated sale notice though the last date for submission of such bids was 26.02.2018.

In that view of the matter, the auction sale proposed to be held tomorrow would inevitably have to fail, if the petitioners also do not choose to bid. In consequence, their challenge to the sale notice dated 25.01.2018 published by the respondent Bank is also rendered purely academic and does not warrant consideration on merits.

On this short ground, the writ petition is dismissed. This order shall not preclude the respondent Bank from considering any representation made by the petitioners on its own merits.

Pending miscellaneous petitions, if any, shall also stand dismissed.
No order as to costs.

Date: 27.02.2018

va

JUSTICE SANJAY KUMAR

JUSTICE M.GANGA RAO