

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

WRIT PETITION No.6515 OF 2018

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

Challenge in this writ petition is to the docket order dated 12.02.2018 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.No.2291 of 2017 in S.A.No.519 of 2016.

The said S.A. was filed by the petitioner herein challenging the sale notice dated 19.10.2016 issued by the Bank of India proposing to sell the mortgaged asset on 30.11.2016. The said sale did not materialise and thereafter, the Bank issued a fresh proclamation of sale which was published in newspapers fixing the date of auction as 31.01.2018. It appears that the petitioner then sought amendment of her prayer in the pending S.A. and also filed the subject I.A. seeking stay of all further proceedings, including receipt of the balance sale consideration, issuance of sale confirmation and sale certificate in favour of the auction purchasers apart from taking over of the physical possession of the secured asset. By the docket order dated 12.02.2018, the Tribunal directed the Bank not to issue a sale certificate in favour of the highest bidder in the auction sale held on 31.01.2018 subject to the petitioner depositing 15% of the outstanding amount claimed in the sale notice within two weeks from the date of the order. The Tribunal also made it clear that in the event of failure to comply with this condition, the interim stay would stand vacated and the Bank would be at liberty to issue the sale certificate and proceed further in accordance with law.

Heard Sri Ambadipudi Satyanarayana, learned counsel for the petitioner, and Smt. V. Dyumani, learned counsel for the first respondent Bank.

Sri Ambadipudi Satyanarayana, learned counsel, would submit that the condition imposed by the Tribunal requiring his client to deposit 15% of the outstanding amount within a short frame of two weeks is onerous as the petitioner would have to deposit approximately over Rs.15,00,000/-.

Once the Tribunal, in its discretion, required the petitioner to deposit a particular amount so as to enjoy the benefit of the stay order, this Court would be reluctant to interfere with such exercise unless it is shown to be patently illegal or without application of mind.

We do not find it to be so on facts.

However, as the petitioner would be entitled to some more time to comply with the condition imposed by the Tribunal, the writ petition is disposed of extending the time granted by the Tribunal to make the deposit of 15% of the total outstanding dues as claimed in the sale notice by two more weeks from today. The petitioner shall therefore make the deposit by 5:00 p.m. on 14.03.2018 without fail. In the event the petitioner fails to make the deposit as aforestated, this order shall stand withdrawn and the writ petition shall stand dismissed.

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

JUSTI CE SANJAY KUMAR

JUSTI CE M.GANGA RAO

Date: 28.02.2018
Note: Issue CC by 02.03.2018
B/o
va