

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION NO.7075 OF 2018

ORDER: (per SK,J)

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

'For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to pass order or orders direction more particularly in the nature of Writ of Mandamus or any other appropriate writ, order by suspending the sale conducted on 26.02.2018 in pursuance of the E-Auction Notice dated 24.01.2018 initiated by the respondent bank under the provisions of the SARFAESI Act as illegal null and void by directing the Hon'ble Debt's Recovery Tribunal-II, Hyderabad to pass orders on merits in SA.No.73/2018 by directing the respondent bank not to proceed further in taking physical possession as well as sale of property of the petitioner and pass such other order or orders to which the petitioner is entitled to be in the interest of justice.'

It is an admitted fact that the petitioner filed S.A.No.73 of 2018 on 23.02.2018 before the Debts Recovery Tribunal-II, Hyderabad, assailing the sale notice dated 24.01.2018 issued by the Canara Bank fixing the auction sale of the secured asset on 26.02.2018. By docket order dated 23.02.2018, the Tribunal, having heard the matter, issued urgent notice to the respondents. The case was adjourned to 13.03.2018. Apprehending that further steps would be taken by the Canara Bank pursuant to the sale held on 26.02.2018, the petitioner filed the present writ petition on 02.03.2018.

Ms.Ajitha, learned counsel representing Mr.D.Raghavulu, learned counsel for the petitioner, is however not in a position to inform us as to whether the sale scheduled to be held on 26.02.2018 materialised or not.

In the absence of any information in this regard, the apprehension of the petitioner that the bank would proceed further pursuant to such

sale can only be termed to be speculative. That apart, the petitioner has already invoked the statutory remedy available to him under Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, by filing S.A.No.73 of 2018 before the jurisdictional Debts Recovery Tribunal. Merely because the Tribunal did not immediately grant interim relief is not a ground for the petitioner to approach this Court by way of a writ petition under Article 226 of the Constitution. In the event of any urgency, it is always open to the petitioner to seek advancement of the case before the Tribunal or file an additional application for further interim relief. We are sure that the Tribunal would be sensitive to any such urgency in the event the petitioner moves an application and would take timely measures in the interest of justice.

The writ petition is accordingly dismissed subject to the above observation.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR,J

D.V.S.S.SOMAYAJULU,J

Date:05.03.2018

GJ