

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

*THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON' BLE MS. JUSTICE J. UMA DEVI

+ WRIT PETITION No.8362 of 2018

%Date: 19.04.2018

Between:

M/s. Ramakrishna Electronics,
SBI Colony, Kurnool, Rep. by its
Managing Partner Mr. Vemula Raghavendra and others

.. Petitioners

Vs.

\$ M/s. Andhra Bank, Rep. by its
Authorized Officer.

.. Respondent

! Counsel for petitioners : B. Chandrasen Reddy

^ Counsel for respondent : Smt. V. Dyumani

<GIST:

>HEAD NOTE:

? CASES REFERRED: 2014 (5) SCC 610

THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON' BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION No.8362 OF 2018

ORDER: (per Justice V. Ramasubramanian)

The petitioners have come up with the above writ petition challenging the E-auction sale notice issued on 26.02.2018 inviting the date of auction as 30.03.2018.

2. Heard Mr.B.Chandrasen Reddy, learned counsel for the petitioners and Smt. V.Dyumani, learned Standing Counsel for the respondent.

3. The main ground on which the petitioners have come up with the above writ petition is that the notice under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, was issued by the Bank on 26.02.2018 and a notice under Rule-9 of the Rules was published in the newspapers on 27.02.2018 fixing the date of auction as 30.03.2018.

4. But the amended provisions of Section 13(8) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, provide an opportunity to the borrower to redeem the mortgaged property. In Mathew Varghese v. M. Amritha Kumar & Ors¹, the Supreme Court clarified Rule 8(6) of the Rules and held that the period of (30) days, is for enabling the borrower to redeem his property. Hence, the statutory period of (30) days, is inviolable. But, the moment a notice under Rule 9 of the Rules is published, the right of redemption stands extinguished.

5. Therefore, we are of the considered view that the impugned auction notice deserves to be set aside. Accordingly, the writ petition is allowed and the E-auction notice is set aside. It will be open to the

¹ 2014 (5) SCC 610

respondent to proceed in accordance with law afresh from the date at which the irregularity crept in.

6. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 19, 2018

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