

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION Nos. 9392 and 11254 of 2018

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

The prayers of the petitioners in these two cases read as under:

W.P.No.9392 of 2018:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court, in the interest of justice, be pleased to issue a writ, order or direction, more particularly, one in the nature of Writ of *mandamus* declaring the action of the respondent bank authorities R2-R4 in putting all the property in Sai Teja Residential Complex bearing D.No.8-10-268, Nehru Nagar, Guntur including Flat Nos.5 and 6 belonging to the petitioners for sale is illegal, unconstitutional and consequently set aside the Mega E-Auction notice dtd 22-2-2018 issued by R3 only to the extent of property bearing D.No.8-10-268, first lane, Nehru Nagar, Guntur notified as asset No.3 against S.No.1 in notice published in newspapers on 25.02.2018 after making it clear that the authorities could not have invoked the provisions of the SARFAESI Act and the rules made thereunder against the property bearing D.No.8-10-268, first lane, Nehru Nagar, Guntur wherein flat Nos.5 and 6 of the petitioners are situated and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

W.P.No.11254 of 2018:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court, in the interest of justice, be pleased to issue a writ, order or direction, more particularly, one in the nature of Writ of *mandamus* declaring the action of the respondent bank authorities R2-R4 in putting all the property in Sai Teja Residential Complex bearing D.No.8-10-268, Nehru Nagar, Guntur including flat No 9 belonging to the petitioners for sale is illegal, unconstitutional and consequently set aside the Mega E-Auction notice dtd 22-2-2018 issued by R3 only to the extent of property bearing D.No.8-10-268, first lane, Nehru Nagar, Guntur notified as asset No.3 against S.No.1 in notice published in newspapers on 25.02.2018 after making it clear that the authorities could not have invoked the provisions of the SARFAESI Act and the rules made thereunder against the property bearing D.No.8-10-268, first lane, Nehru Nagar, Guntur wherein flat No.9 of the petitioners is situated and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

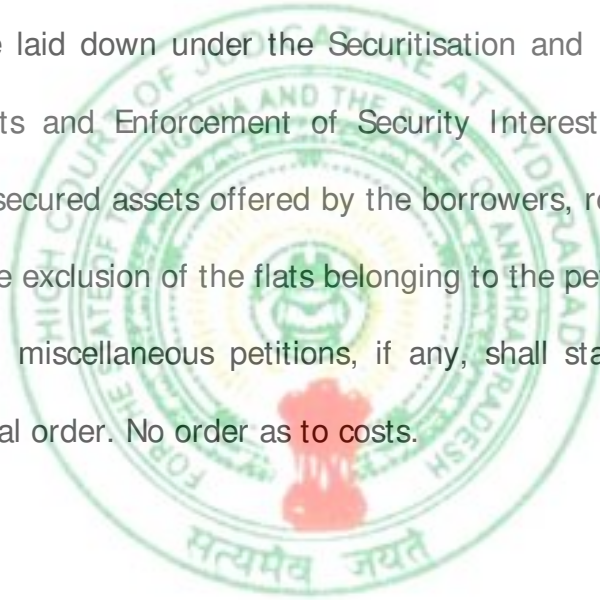
Sri Dishit Bhattacharjee, learned counsel for the respondent - Canara Bank, would state that the impugned e-auction notice dated 22.02.2018 was not acted upon in so far as the properties which are the subject matter of these writ petitions are concerned. He would further state that upon enquiry, the Bank came to know that the borrowers, respondents 5 and 6 herein, played a fraud not only upon the Bank but

also upon the petitioners. He would inform this Court that the Bank already addressed the Central Bureau of Investigation in relation to this fraud. Learned counsel would therefore seek leave of the Court to proceed against the other secured assets offered by the borrowers in relation to their secured debts, excluding the residential flats belonging to the petitioners in these two cases.

Sri K.S. Murthy, learned counsel for the petitioners, states that he has no objection.

The writ petitions are accordingly disposed of leaving it open to the respondent - Canara Bank to initiate proceedings in accordance with the due procedure laid down under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, with regard to the secured assets offered by the borrowers, respondents 5 and 6 herein, to the exclusion of the flats belonging to the petitioners herein.

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



JUSTICE SANJAY KUMAR

Date: 02.07.2018

JUSTICE T. AMARNATH GOUD

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