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

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
And
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

+W.P.No.11567 of 2018

%Date: 09-04-2018

#Between:

Stampede Enterprises India Pvt. Ltd.,
Rep. by its Director, Dasi Emmanuel,
S/o. Dasi John Bob,
Off: Plot No.197, A-Z Elite, 1st Floor, Kavuri Hills,
Madhapur, Hyderabad.

…Petitioner

Vs.

State Bank of India,
Stressed Assets Management Branch-II,
D.No.3-4-1013/A, 1st Floor, CAC,
TYSRTC Bhavan, Kachiguda, Hyderabad
Rep. by its Authorised Officer.

…Respondent

! Counsel for the Petitioner : M/s. Pilix Law Firm

^ Counsel for the Respondent : Mr. M. Srikanth Reddy SC

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? Cases referred

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.11567 of 2018

ORDER: (per VRS,J)

Aggrieved by the docket orders passed by the Debts Recovery Tribunal, on the question of maintainability of the appeal filed by the petitioner, the petitioner, who is the auction purchaser, has come up with the above writ petition.

2. Heard Mr. T. Vijaya Kumar, learned counsel for the petitioner. Mr. M. Srikanth Reddy, learned counsel takes notice for the respondents.

3. It appears that the respondent-Bank brought the properties of the defaulters to sale under a sale notice dated 07.02.2018. The petitioner became the successful bidder in respect of two flats, in the auction held on 07.03.2018 under the SARFAESI Act, 2002.

4. After paying 25% of the highest bid amount, the petitioner claims to have sent letters seeking certain documents relating to both the flats. The petitioner was compelled to issue such letters, due to the fact that the flats are in the 10th floor and according to his information, the building had approval only for the construction of five floors.

5. Contending that the Bank was dragging the matter without furnishing these documents and that on the other hand the Bank was threatening to forfeit the 25% of the amount, the petitioner moved the Debts Recovery Tribunal by filing an appeal in SAIR 77 of 2018. On 22.03.2018 the Tribunal ordered the issue of notice in the said appeal, on the question of maintainability. The matter was taken up on 26.03.2018 and reposted to 27.03.2018. On 27.03.2018 the Tribunal ordered the issue of fresh notice returnable by 04.04.2018.

6. Challenging these docket orders, the petitioner has come up with the above writ petition contending that the appeal was clearly maintainable in law and by postponing the question of maintainability, the issue was getting dragged on, and that the petitioner is facing the threat of forfeiture of 25% of the amount already paid.

7. But at the out set we should point out that unless and until, the Tribunal passed a judicial order about the maintainability of the appeal, the question of interference under Article 226 does not arise. About the urgency we have something to say. Let us assume that the Bank will proceed in haste and forfeit 25% of the amount, even then the amount is actually with the Bank. Therefore, in case the petitioner succeeds either way, it will only be a question of directing the Bank to refund the money. Forfeiture of 25% of the amount deposited by the petitioner does not tantamount to forfeiture of legal remedies available to the petitioner or the forfeiture of jurisdiction of the Tribunal to pass appropriate orders. Therefore, the writ petition is dismissed.

8. As a sequel, miscellaneous petitions pending in this writ petition, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J.

ABHINAND KUMAR SHAVILI, J.

9th April, 2018
Js.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.11567 of 2018
(Per VRSJ)

9th April, 2018

Js.