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

WRIT PETITION NO.33007 OF 2017

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

Challenge in this writ petition was to the possession notice dated 13.07.2017 issued by the State Bank of India, Hindupur Branch, Anantapur District, and to the alleged action of the bank in trying to forcibly take possession of the premises of the secured asset without following the due procedure laid down by law.

By order dated 27.09.2017, this Court merely stayed confirmation of the auction sale in the event any auction was conducted within a period of eight weeks. The petitioners were given liberty to pay the amount due to the bank and if they failed to pay, the bank was given liberty to take further proceedings under the Securitisation and Reconstruction of Financial Interest and Enforcement of Security Interests Act, 2002 (for brevity, 'the SARFAESI Act').

We are informed that pursuant to the aforestated order, the petitioners made payments to the respondent bank towards their respective loan accounts. The petitioners are husband and wife and both of them availed loan facilities from the respondent bank.

Sri Umesh Singh, learned counsel representing Sri M.Srikanth Reddy, learned counsel for the respondent bank, would inform this Court that the outstanding dues in the first petitioner's loan account stand at Rs.4,50,230/- as on 07.06.2018 and unapplied interest along with expenses would have to be added thereto as the same are also liable to be recovered from him. As regards the second petitioner's loan account, the learned counsel would state that the outstanding dues stand at Rs.3,22,911/- as on 11.06.2018 and in respect of this loan account also, unapplied interest and expenses would have to be added as they are recoverable from the second petitioner.

Sri P.Narahari Babu, learned counsel for the petitioners, would state on instructions that given sufficient time, his clients would clear the total outstanding dues in the aforestated loan accounts.

As the respondent bank is yet to initiate proceedings for recovery of its dues by putting the secured asset to sale, we are of the opinion that an opportunity may be afforded to the petitioners to prove their *bonafides* to settle their loan accounts.

The writ petition is accordingly disposed of with the following directions:

The petitioners shall ascertain from the respondent bank as to the exact amount due and payable by them including the unapplied interest and the expenses. The respondent bank shall endeavour to quantify the same up to the date of liquidation of the loan accounts in terms of this order and inform the petitioners of the amounts due from them respectively within three days from the date of receipt of a copy of this order. The petitioners shall clear the total outstanding dues up to the date of liquidation of the loan accounts including the unapplied interest and the expenses in two instalments. The first such instalment, being 50% of the total amount due along with the unapplied interest and the expenses as quantified by the bank, shall be paid on or before 13.07.2018 and the second instalment, being the remaining 50% of the loan amount along with the unapplied interest and the expenses shall be paid by 13.08.2018. These payments shall be made by both the petitioners in respect of their respective loan accounts. In the event of their not paying either of the aforestated instalments, this order shall stand withdrawn and the writ petition shall stand dismissed. In such an event, the respondent bank shall take further proceedings in accordance with the due procedure laid down in the SARFAESI Act and the Rules framed thereunder. It is also made clear that no plea for extension of time shall be entertained under any circumstances in relation to the time stipulations fixed above.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

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SANJAY KUMAR, J

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T.AMARNATH GOUD, J

13th June, 2018
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