

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

WRIT PETITION NO.13152 OF 2018

ORDER

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

The grievance of the petitioner, an auction purchaser, is with regard to the inaction on the part of the Debts Recovery Tribunal, Cuttack, Odisha State, in disposing of S.A.No.59 of 2017 (old S.A.No.381 of 2014) notwithstanding the orders dated 29.08.2017 passed by the Debts Recovery Appellate Tribunal, Kolkata, directing it to dispose of the said case expeditiously.

Sri M.Narender Reddy, learned senior counsel representing Sri M.Srikanth Reddy, learned counsel for the petitioner, would draw our attention to the orders passed by the Appellate Tribunal requiring expeditious disposal of the subject S.A., but his complaint is that notwithstanding such directions, the Tribunal at Cuttack, has not chosen to finally dispose of the S.A. till date. Learned senior counsel would further state that one reason for the delay is the fact that the borrowers, respondents 3 to 5 herein, have been filing innumerable number of I.As. in the said S.A.

Sri S.Chakrapani, learned counsel appearing for respondents 3 to 5, does not dispute the fact that I.As. are being filed and are still pending consideration in the subject S.A.

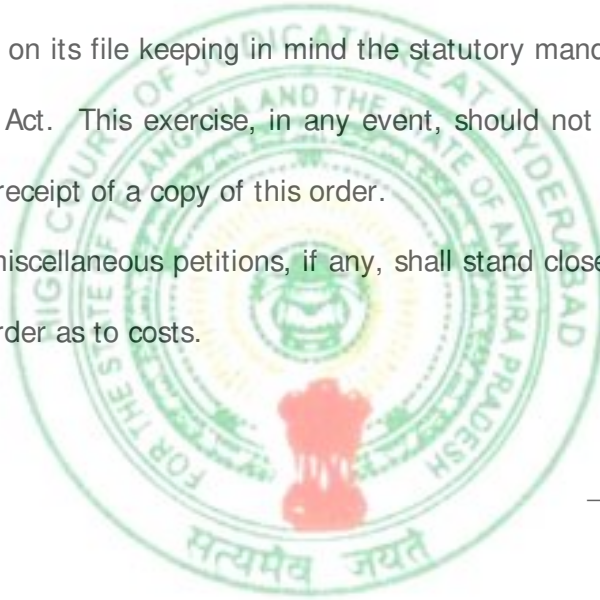
It may be noted that this S.A. dates back to the year 2014 and was transferred from the file of the Tribunal at Hyderabad to Kolkata in the first instance and thereafter from Kolkata to Visakhapatnam and then to Cuttack. It may also be noted that Section 17(5) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*for brevity*, 'the SARFAESI Act') mandates that any application made under Section 17(1) should be dealt with by the Tribunal as expeditiously as possible and disposed of within 60 days from the date of such application. The *proviso* thereunder however entitles the Tribunal to extend the said period from time to time for reasons to be recorded in writing

subject to the total period of pendency of the application not exceeding four months from the date of making of such application under Section 17(1). It is unfortunate that this statutory mandate is followed more in breach. In any event, we are of the opinion that the Tribunal at Cuttack cannot allow itself to be exploited by the borrowers who may have any number of applications ready to file so as to procrastinate and delay disposal of the matter.

Given the fact that the subject Securitisation Application has been pending since 2014, we see no reason to allow the borrowers to further delay its disposal or for the Tribunal to allow itself to be used in such process.

The writ petition is accordingly disposed of directing the Debts Recovery Tribunal, Cuttack, State of Odisha, to dispose of S.A.No.59 of 2017 (old S.A.No.381 of 2014) pending on its file keeping in mind the statutory mandate of Section 17(5) of the SARFAESI Act. This exercise, in any event, should not exceed four months from the date of receipt of a copy of this order.

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



SANJAY KUMAR, J

T.AMARNATH GOUD, J

2nd JULY, 2018

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