

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION NO.24247 OF 2017

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

In this Writ Petition, a mandamus is sought to declare the action of the respondents in issuing notice dated 12.06.2017 for conducting auction on 26.07.2017 for sale of the property admeasuring 37 square yards, without issuing notice and without following the procedure under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the SARFAESI Act" for brevity), as arbitrary and illegal.

An interim order was passed by this Court on 24.07.2017 directing the respondent not to confirm the sale and to receive only 25% of the bid amount from the successful bidder pending further orders. This Court directed the petitioner to deposit a sum of Rs.5,00,000/- with the respondent-company to prove his *bona fides* before 03.08.2017.

Admittedly, the petitioner failed to comply with the interim order. While Sri V.Ravi Kumar, learned counsel for the petitioner, would submit that the petitioner had deposited Rs.2,99,000/-, the fact remains that the order of this Court required him to deposit Rs.5,00,000/- which has, admittedly, not been complied with. On this short ground of non-compliance of the conditional interim order, the interim order is liable to be vacated.

Sri V.Ravi Kumar, learned counsel for the petitioner, would submit that vacation of the interim order would result in dismissal of the Writ Petition itself; and it would suffice if the petitioner is granted reasonable time of around two months to repay the entire amount due minus the legal expenses charged by the respondent-bank of Rs.2.5 lakhs which is exorbitant.

In judicial review proceedings, under Article 226 of the Constitution of India, this Court would not take upon itself the task of rescheduling the debt of the bank, or grant time to the borrower to repay the amount due. Since Sri V.Ravi Kumar, learned counsel for the petitioner, would submit that the petitioner is ready to repay the entire amount due, minus the legal expenses, suffice it to direct the respondents not to take any coercive steps for recovery of the amounts due for a period of six (6) weeks from today. In case the petitioner fails to pay the entire amount due within six weeks, it is open to the respondent to take action for recovery of its dues, in accordance with law, thereafter.

With respect to the legal expenses of Rs.2.5 lakhs, the said amount shall be recovered from the petitioner only after furnishing him details of the legal expenses actually incurred by the respondents in so far as it relates to recovery of the amounts due from the petitioner, including the name of the advocate; and the mode in which the legal expenses, including advocate fees, were paid by the respondent.

The Writ Petition is disposed of accordingly. The interim order dated 24.07.2017 passed in this Writ Petition shall stand

vacated. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(D.V.S.S.SOMAYAJULU, J)

23rd October 2018
RRB

