

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

WRIT PETITION NO.18909 of 2018

ORDER: (per SK,J)

Challenge in this writ petition is to the docket order dated 03.05.2018 passed by the Debts Recovery Tribunal-I, Hyderabad, in IA.No.3579 of 2015 in SAIR No.561 of 2015. The said IA was filed by the petitioner herein along with another under Section 5 of the Limitation Act, 1963, to condone the delay of 276 days in the presentation of the Securitisation Application under Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act'). By the order under challenge, the Tribunal held that it had no power to entertain such an application in the light of the law laid down by the Supreme Court in *INTERNATIONAL ASSET RECONSTRUCTION COMPANY OF INDIA LTD. v. THE OFFICIAL LIQUIDATOR OF ALDRICH PHARMACEUTICALS LTD*¹.

By order dated 08.06.2018, this Court granted interim stay of all further proceedings under the provisions of the SARFAESI Act including sale of the secured property being of the view that the opinion expressed by the Tribunal required examination.

Sri Chithari Prabhakar, learned counsel, entered appearance for the IDBI Bank, the secured creditor, and fairly concedes that the issue stands covered by the decision of this Court rendered by a Division Bench comprising one of us, SK,J, and another learned Judge in *PORUS LABORATORY PRIVATE LIMITED v. INDIAN BANK*². A copy of the said order is placed on record.

¹ AIR 2017 SC 5013

² W.P.No.45198 of 2017 decided on 15.06.2018

In the light of the aforestated order, wherein the decision of the Supreme Court in THE OFFICIAL LIQUIDATOR OF ALDRICH PHARMACEUTICALS LTD¹ was also taken into consideration but it was ultimately held that Section 5 of the Limitation Act, 1963, would have application to even a Securitisation Application which is filed with delay under Section 17 of the SARFAESI Act, the order under challenge cannot be sustained.

The said order is accordingly set aside and the I.A. is restored to the file of the Tribunal for consideration afresh on its own merits and in accordance with law keeping in mind the aforestated decision of this Court in PORUS LABORATORY PRIVATE LIMITED². In the event the Tribunal finds just and sufficient cause having been made out for condonation of the delay, it shall proceed to do so and consider the main Securitisation Application on its own merits.

The writ petition is disposed of with the above directions. Interim order dated 08.06.2018 shall continue to remain operative till disposal of the delay condonation application by the Tribunal.

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

Date:10.07.2018

GJ