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

WRIT PETITION NO.19391 of 2018

ORDER: (per SK,J)

Challenge in this writ petition is to the e-auction sale notice dated 09.05.2018 issued by the UCO Bank, Tirupathi, Chittoor District, wherein the auction sale is scheduled to be held on 13.06.2018.

Though Sri V.V.Ramana, learned counsel for the petitioner, would contend that the aforestated auction sale notice is liable to be set aside on the ground that the earlier notice issued under Rules 8(5) and 8(6) of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules of 2002'), is in violation of the statutory provision, we are not persuaded to agree.

Perusal of the notice issued by the bank under Rules 8(5) and 8(6) of the Rules of 2002 on 22.02.2018 reflects that the bank merely informed the petitioner that thirty days time was given to him to repay the amount due, failing which the bank proposed to sell the mortgaged property in auction by inviting tenders/quotations from the public.

Sri V.V.Ramana, learned counsel, would state that the notice is in violation of the statutory provisions, as Rule 8(5) of the Rules of 2002 requires the reserve price fixed for sale of the mortgaged property to be disclosed.

However, we find from a reading of the provision that the reserve price requires to be fixed only prior to the sale of the property in terms of Rule 9(1) of the Rules of 2002 and the same need not be disclosed in the notice issued by the secured creditor under Rule 8(6) of the Rules of 2002. In fact, Rule 8(5) of the Rules of 2002 does not even speak of any notice being issued thereunder. Rule 8(6) of the Rules of 2002 only requires the secured creditor to allow the borrower the notice period of thirty days before the sale of the secured asset in terms of the options available under Rule 8(5) of the Rules of 2002.

In the light of this statutory scheme, the notice dated 22.02.2018 issued by the UCO Bank does not fall short. Thereunder, the bank allowed the petitioner, the borrower, a clear period of thirty days before the sale and also informed him that the auction would be by way of inviting tenders/quotations from the public. This later piece of information need not even be shared with the borrower in terms of Rule 8(5) of the Rules of 2002 but the bank, in its wisdom, chose to do so. We therefore find no illegality on the face of it warranting entertainment of this writ petition on the ground that the secured creditor failed to abide by the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the Rules of 2002.

The writ petition is accordingly dismissed in this short ground. This order shall however not preclude the petitioner from invoking the statutory remedies available to him in law, if he so chooses.

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

SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:13.06.2018

GJ