

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.25948 OF 2017

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

Ms.Vidyullatha, learned counsel representing Mr.G.V.Shivaji, learned counsel for the petitioners, seeks time.

However, we are not inclined to adjourn the matter given the circumstances of the case.

The prayer of the petitioners reads as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Certiorari calling for the records relating to the impugned order made in I.A.No.2093/2017 in S.A.No.1321/2017, dated 28.07.2017 on the file of Debts Recovery Tribunal –II at Hyderabad and the impugned notice dated 12.04.2017, on the file of the Respondent Bank and declare the impugned notice vide proceedings HDFC/DFSO/MSM/33-2017, dated 21.07.2017, issued by the respondent Bank as illegal, arbitrary and violative of Article 14 of the Constitution of India and also contrary to the provisions of SARFAESI Act, 2002 and pass such order or orders as this Hon'ble Court deems fit just and proper in the circumstances of this case.”

By the order dated 28.07.2017, the Debts Recovery Tribunal-II, Hyderabad, granted interim stay of all further proceedings pursuant to the possession notice dated 21.07.2017 issued by the HDFC Bank Limited, the respondent herein, subject to the petitioners depositing 25% of the outstanding dues in two instalments, the first instalment of 10% being payable within one week from the date of the order and the second

instalment of 15% being payable within two weeks thereafter. Aggrieved by the condition imposed, the petitioners came before this Court by way of this writ petition.

Notice was ordered to the respondent bank on 04.08.2017 but no interim orders were passed.

In effect, as the petitioners failed to abide by the conditional order passed by the Tribunal, the stay granted by it ceased to operate.

Mr. Shabbeer Ahmed, learned counsel for the respondent bank, would inform this Court that owing to the fact that the stay granted by the Tribunal expired due to the failure of the petitioners to comply with the condition imposed, the bank initiated further measures under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the same are yet to culminate in an order.

In the light of these developments, we are of the opinion that challenge to the conditional order passed by the Tribunal no longer survives for consideration on merits.

The writ petition is accordingly dismissed on this short ground leaving all issues open.

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

SANJAY KUMAR,J

P. KESHAVA RAO,J

Date: 16.02.2018
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