

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

WRIT PETITION No.21802 of 2018

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

The prayer of the petitioner in this writ petition is to direct the Debts Recovery Tribunal, Visakhapatnam, to dispose of S.A.I.R.No.3357 of 2017 as expeditiously as possible.

The petitioner, being the auction purchaser in the sale held by the Syndicate Bank for realization of the debt due from the fourth respondent/borrower, filed the aforestated Securitisation Application. In terms of Section 17(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), a Securitisation Application has to be filed within 45 days from the date of the measures initiated by the secured creditor under Section 13(4) thereof with which the applicant has a grievance. In the present case, the grievance of the petitioner in the S.A. was with regard to the e-auction sale held by the bank on 30.09.2015. As there was a delay of 555 days in filing the S.A., the petitioner filed I.A.No.3356 of 2017 therein seeking condonation of the said delay. It appears that the Tribunal is keeping the matter pending without dealing with the said condone delay application.

In the light of the decision rendered by a Division Bench of this Court, comprising one of us, SK,J, and another learned Judge, in PORUS LABORATORY PRIVATE LIMITED V/s. INDIAN BANK, ASSET RECOVERY MANAGEMENT BRANCH, HYDERABAD¹, the Debts Recovery Tribunal would have the power to entertain an application filed

¹ W.P.No.45198 of 2017 decided on 15.06.2018

under Section 5 of the Limitation Act, 1963, and condone the delay in the presentation of the Securitisation Application under Section 17(1) of the SARFAESI Act, if just and sufficient cause is shown therefor. Further, it may also be noted that Section 17(5) of the SARFAESI Act mandates that the Securitisation Application filed under Section 17(1) must be disposed of within the time stipulated thereunder. In such circumstances, the Tribunal cannot keep the matter pending indefinitely.

The writ petition is accordingly disposed of directing the Debts Recovery Tribunal, Visakhapatnam, to take note of the observations made hereinabove and forthwith consider I.A.No.3356 of 2017 filed by the petitioner in S.A.I.R.No.3357 of 2017 on its own merits and in accordance with law. In the event the Tribunal deems it appropriate to condone the delay in the presentation of the S.A., it shall then proceed to adjudicate the S.A. on its own merits and in accordance with law keeping in mind the mandate of Section 17(5) of the SARFAESI Act.

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

Dt: 09.07.2018.
IBL