

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

WRIT PETITION No.26066 of 2018

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

Challenge in this writ petition is to the auction notice dated 25.06.2018 issued by the Lakshmi Vilas Bank, the respondent herein, which was published in newspapers on 26.06.2018, fixing the date of the auction sale as 30.07.2018.

2. This auction sale notice was issued by the respondent Bank under Rule 9(1) of the Security Interest (Enforcement) Rules, 2002 (for short, the Rules of 2002). The ground of challenge is that the Bank failed to issue a notice under Rule 8(6) of the Rules of 2002 prior to the issuance of the impugned auction sale notice.

3. Sri T.Sridhar, learned counsel for the petitioner, would assert that this violation runs contra to the edict of the Supreme Court in **Mathew Varghese Vs. M.Amritha Kumar**¹, wherein the procedure prescribed under Rule 8(6) was held to be mandatory.

4. Sri V.V.Ramana, learned counsel for the respondent Bank, having obtained instructions, would fairly concede that the Bank failed to issue a notice under Rule 8(6) of the Rules of 2002.

5. In that view of the matter, the issuance and publication of the impugned auction sale notice is clearly in violation of the prescribed procedure which has been held as mandatory.

¹ (2014) 5 SCC 610

6. The writ petition is accordingly allowed on this short ground setting aside the auction sale notice dated 25.06.2018 issued by the respondent Bank. This order shall however not preclude the bank from initiating action afresh in accordance with the due procedure prescribed under the SARFAESI Act and the Rules framed thereunder, obtaining as on date, for recovery of its dues. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J

Date: 26.07.2018
TJMR

T.AMARNATH GOUD, J

