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

WRIT PETITION No.4401 OF 2017

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

The grievance of the petitioners is in relation to the docket order dated 19.01.2017 passed by the Debts Recovery Tribunal, Hyderabad, in I.A.No.2739 of 2016 in S.A.No.447 of 2016. The said Securitisation Application was filed by the petitioners herein assailing the possession notices dated 23.08.2016 and 24.08.2016 issued by the UCO Bank, the respondent herein, under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), read with Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. By the subject I.A. filed therein, the petitioners sought stay of all further proceedings, including their dispossession from the secured assets, pursuant to the impugned possession notices.

By the docket order dated 19.01.2017, the Tribunal deemed it appropriate to stay all further proceedings pursuant to the impugned possession notices subject to the condition that the petitioners deposit 30% of the outstanding dues in two equal instalments within four weeks. The first instalment of 15% was to be deposited within two weeks from the date of the order and the second instalment of 15% was to be deposited within two weeks thereafter. The Tribunal also made it clear that failure to make any of the deposits would entail the bank taking further steps pursuant to the impugned possession notices.

The total outstanding dues stood at Rs.5,08,34,767/- as on 02.05.2016. In terms of the conditional order passed by the Tribunal, the petitioners therefore had to deposit Rs.1,52,50,430/-.

Sri S.Srinivas Reddy, learned counsel for the petitioners, would inform this Court that after the institution of this writ petition, the petitioners paid a sum of Rs.1.00 crore to the respondent bank on 09.01.2018 and a further sum of Rs.25.00 lakh on 11.01.2018. He produced a demand draft bearing No.933223 dated 19.02.2018 drawn on Andhra Bank, Srinagar Colony Branch, Hyderabad, for a sum of Rs.20.00 lakh in the name of the respondent bank and the same was handed over to Sri V.V.Ramana, learned counsel for the respondent bank, in open Court. Learned counsel would submit that given sufficient time, his clients would make good the shortfall in the deposit as directed by the Tribunal.

Though the learned counsel also advanced arguments on the merits of the matter, we are of the opinion that as the issue is still alive before the Tribunal in the pending Securitisation Application, no cause is made out for this Court to venture into the merits of the matter at this stage.

Sri V.V.Ramana, learned counsel for the respondent bank, would however point out that the Tribunal passed the order as long back as on 19.01.2017 requiring the petitioners to make the deposits as directed therein and the petitioners have had the benefit of over a year's time in doing so but are yet to make good the full deposit in terms of the condition imposed by the Tribunal. He would therefore submit that they may be directed to deposit a further sum in proof of their *bonafides*.

As the petitioners have already deposited Rs.1.45 lakh in pursuance of the order of the Tribunal and given the admitted fact that the respondent bank, having secured an order under Section 14 of the SARFAESI Act, did not proceed further and take actual physical possession of the secured assets owing to the pending negotiations in relation to a One Time Settlement, we are of the opinion that an opportunity may be afforded to the petitioners to make the deposit of the balance amount in terms of the conditional order passed by the Tribunal and a little more, so as to demonstrate their *bonafides*.

The petitioners are accordingly directed to deposit a further sum of Rs.30.00 lakh (Rupees Thirty Lakh only) before 06.04.2018 with the respondent bank without prejudice to their contentions raised in the subject Securitisation Application. Upon such deposit, the stay granted by the Tribunal, by the docket order dated 19.01.2017, shall continue to operate pending the disposal of the Securitisation Application. If the petitioners fail to make the deposit within the stipulated time as aforestated, this order shall stand withdrawn and the writ petition shall stand dismissed. The respondent bank would thereupon be at liberty to proceed further in the matter in accordance with law. In the event of the parties negotiating and arriving at a One Time Settlement for closure of the loan account of the petitioners, the respondent bank shall give due credit to the amounts already deposited in terms of the order passed by the Tribunal and this Court. It is made clear that we have not gone into the merits of the matter and all issues, including the issues referred to in the docket order dated 19.01.2017, are left open to be addressed by the Tribunal.

The writ petition is accordingly disposed of.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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P. KESHAVA RAO,J

Date: 22.02.2018
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