

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

+ Writ Petition No.40223 of 2018

% Date: 08-11-2018

M/s. Someshwara Rubber Products Pvt. Ltd.,
Rep. by its Managing Director,
Smt. Jayamala Harlapur W/o Jagadeesh Harlapur,
Aged 48 years, Occ: Managing Director,
R/o Flat No.142, Manovikas Nagar,
R.T.C. Colony, Tirumalagiri, Hyderabad-500 009
... Petitioner
Vs.

\$ 1. The Authorized Officer/Recovery Officer,
Bank of India, Hyderabad, Recovery Dept.,
H.No.10-1-1199/2, PTI Bldg., 2nd Floor,
A.C. Guards, Hyderabad-500 004
2. The Branch Manager, Bank of India,
Kompally Branch, Plot Nos.1&2,
Survey No.94/B, Sanna Mallesh Yadav Complex,
Kompally, Ranga Reddy District
... Respondents

! Counsel for Petitioner: Mr. Srinivas Velagapudi

Counsel for Respondents: ---

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> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition No.40223 of 2018

Order: (per V.Ramasubramanian, J.)

The petitioner has come up with the above writ petition challenging an e-auction sale conducted on 31-10-2018.

2. Heard Mr. Srinivas Velagapudi, learned counsel for the petitioner.

3. The Authorised Officer of the Bank initiated measures under Section 13(4) of the Securitisation Act, 2002, way back in March, 2017. At that time, the petitioner approached the Tribunal by way of an appeal under Section 17 in S.A. No.1142 of 2017. The Tribunal granted stay of auction on 22-3-2017 subject to certain conditions. But obviously the conditions were not complied with.

4. Therefore, the Bank issued a sale notice dated 14-9-2018 fixing the auction on 31-10-2018. Immediately the petitioner moved a miscellaneous application in I.A.No.5216 of 2018 before the Tribunal for stay of further proceedings pursuant to the auction notice dated 14-9-2018. The Tribunal, by an interim order dated 30-10-2018, imposed certain conditions for stay of further proceedings pursuant to the auction notice. Those conditions were also not complied with. The conditional order passed by the Tribunal was also not challenged. As a result, the auction went on.

5. Now the petitioner has come up before this Court challenging the auction conducted. We do not know how the

Writ is maintainable. Once the attempt to stall the auction proposed to be conducted in March, 2017 was successful at least partially upon complying with certain conditions, but the petitioner lost the opportunity by not complying with the conditions and once an attempt to stall the present auction was also successful partially subject to fulfilment of certain conditions, but the petitioner failed to fulfil those conditions, it may not be possible for the petitioner to approach a different forum to challenge the consequences that fell upon them for not complying with the conditional order.

6. The learned counsel for the petitioner contended that the statutory period of notice was not complied with. But that is the very ground on which the petitioner ought to have sought stay in I.A.No.5216 of 2018 before the Tribunal. If the Tribunal had imposed certain conditions for the grant of stay and the petitioner could not comply with those conditions resulting in the auction, the auction alone cannot be challenged before a different forum. Therefore, the writ petition is dismissed, leaving it open to the petitioner to raise all the issues in the pending matter before the Debts Recovery Tribunal. Pending applications, if any, shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

08th November, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition No.40223 of 2018
(per VRS, J.)



08th November, 2018.
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