

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE P. KESHA VA RAO**

+ WRIT PETITION No.41167 OF 2018

% Date:12.12.2018

Between:

Maddi Sharada Devi W/o. Sadasivudu,
Partner, M/s.Sharada Industries,
R & T road, Warangal.

... Petitioner

v.

\$ Union of India, Rep. by its Secretary,
Ministry of Finance, New Delhi.

.. Respondents

! For Petitioner

: M/s. K.V. Bhanu Prasad

^ For Respondents

: Mr. K. Lakshman,
Asst. Solicitor General.

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> Head Note

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? Cases Referred

: Nil

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**HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE P. KESHA RAO**

WRIT PETITION No.41167 OF 2018

ORDER: *(Per V. Ramasubramanian, J)*

Aggrieved by the action of the bank in proceeding to issue a sale notice, even during the pendency of an application for extension of time to comply with the conditional order, one of the borrowers has come up with the writ petition.

2. Heard Mr. K.V. Bhanu Prasad, learned counsel for the petitioner and Mr. P. Rajesh Babu, learned counsel for the Bank.

3. The conditional order passed by the Debts Recovery Tribunal on 20.08.2018 reads as under:

“The outstanding dues of the Respondent are around jRs.4.15 crores. Further, the Petitioners have not raised any material irregularities as committed by the Bank in putting the schedule properties for sale except fixing the reserve price. In view of the above, this Tribunal is not inclined to interfere with the sale proceedings initiated by the Respondent Bank against the petitioner schedule properties under the e Auction Notice dt.11.04.2018. Accordingly, the Respondent Bank may go ahead with the auction of the petition schedule properties as scheduled on 21.08.2018 but not to confirm the sale in favour of the highest bidder in the auction sale of the above petition schedule properties in pursuance of the e Auction e Notice dt.11.07.2018 subject to the Petitioners depositing 25% of the total outstanding dues as claimed in E Auction Notice 11.07.2018, in two equal instalments – first instalment of 10% is directed to be deposited within one week from the date of this order and the second instalment of 15% within 3 weeks thereafter, directly with the Respondent Bank. In the event of failure of compliance of any of the above conditions by the Petitioners, the interim stay shall stand vacated and the Respondent Bank shall be at liberty to confirm the sale in favour of the highest bidder and proceed further in accordance with law.

Accordingly, I.A. 2149/18 is disposed of.”

4. It appears that the amount payable as per the conditional order was Rs.1,17,43,437/-. But, unfortunately, the petitioner paid only a sum of Rs.1.03 crores.

5. It appears to be a mistaken calculation. Therefore, the petitioner filed an application for extension of time. When the same was pending, the Bank has proceeded to issue the auction sale notice on the ground that the conditional order was not complied with. Hence, the present writ petition.

6. The failure of the petitioner is not deliberate. The petitioner has made a sincere attempt to comply with the conditional order, but fell short only by a small percentage of the amount payable under the conditional order. In fact, the extracted portion of the order of the Tribunal shows the dues to be Rs.4.15 crores. Therefore, the petitioner seems to have calculated 25% on the basis of the said statement. This is only an error of calculation.

6. Hence, the writ petition is allowed on condition that the petitioner now pays the differential amount of Rs.14.00 lakhs, on or before 31.12.2018. Upon such payment being made, the stay order granted by the Tribunal on 20.08.2018 will continue to be in force till the disposal of the main original application. If the petitioner fails to make payment before said date, the Bank may proceed with the auction and its confirmation.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

December 12, 2018
KTL