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

WRIT PETITION NO.35434 of 2017

ORDER: (per SK,J)

The grievance of the petitioner in this case was with regard to the order dated 15.09.2017 passed by the Debts Recovery Tribunal, Visakhapatnam, in S.A.No.6 of 2016, whereby the Tribunal opined that the notice filed by the petitioner, being the applicant in the securitisation application, to produce certain documents mentioned therein did not require consideration. The Tribunal however left it open to the petitioner to argue for the documents sought by him in the said notice at the time of arguments in the main securitisation application and accordingly adjourned the matter to 05.10.2017 for arguments.

By order dated 30.10.2017, this Court took note of the fact that the main S.A. was coming up for arguments and there was a possibility of the case itself being disposed of during the pendency of this writ petition and accordingly granted interim stay of further proceedings for a period of three weeks. This order was extended thereafter from time to time.

Sri A.Prabhakar Rao, learned counsel for the petitioner, would contend that there are certain disputed questions of fact which require to be addressed by the petitioner before the Tribunal and in the context thereof, the documents mentioned in the notice dated 11.04.2017 filed by the petitioner before the Tribunal need to be produced in original so that the petitioner would have an opportunity to go through the same before advancing arguments.

Perusal of the notice dated 11.04.2017 reflects that the petitioner sought the production of the following documents:

1. ‘The Terms and Conditions for the E-Auction sale which was held on 30.10.2015.
2. Inward register of the bank for the months September to December 2015.
3. To provide original documents of D24, D25, D26 and D27 as reframed in your counter.
4. The notice issued under Rule 8(6) prior to auction sale notice dt.26.09.2015 to the borrowers and guarantors along with postal receipts and acknowledgments.’

We are of the opinion that as the petitioner would be entitled to advance her arguments before the Tribunal on all issues, the bank cannot claim any privilege over its records relating to the proceedings initiated by it under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, ‘the SARFAESI Act’), in so far as they concern the petitioner. Details of the documents sought, as set out supra, reflect that some of the documents found mention in the counter filed by the bank, while others relate to the sale of the petitioner’s asset. The petitioner would therefore be entitled to peruse the aforestated original documents before advancing arguments in the securitisation application.

The writ petition is accordingly disposed of directing the Central Bank of India to produce the originals of the documents mentioned in the notice dated 11.04.2017 before the Debts Recovery Tribunal, Visakhapatnam, at the stage of the arguments. The Tribunal shall allow the petitioner and her counsel to peruse the said original documents and thereafter, advance arguments on the strength of the same.

Sri P.Ramachandram, learned counsel for the auction purchaser, would submit that by virtue of the pendency of the proceedings, the auction purchaser is deprived of the possession of the secured asset.

He would therefore request that the Tribunal may be directed to dispose of the matter within a time frame.

Keeping in mind the fact that the S.A. is of the year 2016 and Section 17(5) of the SARFAESI Act requires the Tribunal to dispose of the application expeditiously and preferably within 60 days from the date of its institution, we direct the Debts Recovery Tribunal, Visakhapatnam, to dispose of the securitisation application expeditiously and preferably within six weeks from the date of receipt of a copy of this order.

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:07.02.2018

GJ