***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. KESHAVA RAO

+ WRIT PETITION No.45537 OF 2018

% Date:14.12.2018

Between:

M/s. Eco Care Projects Private Limited,
New Delhi and others.

… Petitioners

v.

$ State Bank of India, Stress Assets
Management Branch, Secunderabad,
Hyderabad and another.

.. Respondents

! For Petitioner : Mr. M. Srikanth Reddy

^ For Respondents : Mr. S. Janardhan Goud
Mr. K. Lakshman

< Gist :

> Head Note :

? Cases Referred : Nil

C/15

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.45537 OF 2018

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

Heard Mr. M. Srikanth Reddy, learned counsel for the petitioner and Mr. S. Janardhan Goud, learned Standing Counsel for the 2nd respondent and Mr. K. Lakshman, learned Assistant Solicitor General.

2. As against the measures initiated by the Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short `the Securitisation Act'), the petitioner filed an appeal in SA No.492 of 2018 under Section 17 of the Securitisation Act. They also sought interim stay of further proceedings pursuant to the sale notice dated 26.10.2018, in an application in I.A. No.5882 of 2018. The date of the auction was fixed as 10.12.2018.

3. The Tribunal passed an order on 06.12.2018 imposing two conditions. The first was that the petitioner should deposit Rs.15.00 crores on or before 10.12.2018 and another Rs.15.00 crores within ten days thereafter directly with the respondent Bank. Subject to compliance with these conditions, the auction was allowed to go on, but the confirmation was stayed.

4. The case of the petitioner is that since the Banks were closed on December 07th, 08th and 09th, a sum of Rs.15.00 crores was deposited on 10.12.2018 along with a letter to appropriate another

amount of Rs.9.85 crores lying in a no lien account. But, according to the Bank, the conditional order was not complied with, before the time stipulated for the auction. Moreover, the money was lying in a no lien account and deposited by third party. Therefore, the Bank proceeded with the auction and even confirmed the sale.

5. It is true that the first condition imposed by the Debts Recovery Tribunal should have been complied with by the petitioner before the time and date fixed for the auction. The date and time fixed for the auction was between 11.00 a.m. and 12.00 Noon on 10.12.2018. The petitioner complied with the first condition by remitting the amount on 10.12.2018 itself, but after a delay of few minutes. Therefore, the Bank proceeded with the sale.

6. But, if the conditional order passed by the Debts Recovery Tribunal was on 06.12.2018 and if the Bank had holidays on December 07th, 08th, 09th on account of the first day being the election day and the next two days being the second Saturday and Sunday, the condition imposed by the DRT is totally impracticable. It is true that the order of the DRT is not under challenge. It is not under challenge because the petitioner has filed an application for condonation of not just a day but just a few minutes in complying with the first condition. This is not how a Bank can actually behave.

7. In fact, apart from the fact that the first condition has been fulfilled before the close of the working hours on 10.12.2014, the petitioner has also made part-payment towards second condition, though not from their own account, but from a no lien account into

which another party had deposited money. All that was required was a simple conformation letter from the third party. This confirmation letter, the petitioner was entitled to give on or before 20.12.2018, since the time for payment of balance was available till 20.12.2018.

8. Therefore, it is clear that the Bank should have kept on hold, the confirmation of sale. It is a clear case where a borrower was prepared to comply with the most stringent of conditions imposed by the Debts Recovery Tribunal, within the time prescribed. The Bank cannot ask for more. Therefore, the writ petition is disposed of directing the Bank not to proceed further, subject to the following conditions:

i. The petitioner shall obtain a letter from the third party to the Bank that they have no claim over the money appropriated by the Bank.

ii. The Bank appropriates the entire amount of Rs.24.85 crores towards loan amount of the borrower.

iii. The petitioner complies with the second condition of payment of the balance amount of Rs.5.18 crores before 20.12.2018.

The Second Appeal shall be disposed of as early as possible.

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

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

December 14, 2018
KTL