

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

WRIT PETITION NO.41839 of 2017

ORDER: (per SK,J)

The prayer of the petitioners in this case reads as under:

'For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent Bank in issuing the E-auction sale notice in Item No.16 published in Eenadu Telugu Daily News Paper, East Godavari Edition and Business Line News Paper, Hyderabad Dt 10.11.2017 as illegal, arbitrary and unjust and also declaring the action of the respondent bank to proceed with the sale of the property of the petitioners, which is more than 4 crores and odd and the other properties mentioned in the publication which is more than 15 crores put for sale whereas the outstanding balance mentioned in the E-auction notice is Rs.23 crores, as illegal, contrary to law and violative of Article 14 of the Constitution of India and set aside the E-auction sale Notice, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

By order dated 11.12.2017, this Court observed that there was a manifest violation of the mandate of Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, as there was a shortfall in the thirty days to be maintained from the date of the notice till the date of auction in as much as the petitioners had received the said notice only on 13.11.2017 but the auction was to be held on 11.12.2017. This Court accordingly granted interim stay as prayed for but made it clear that the stay would only operate in respect of the property belonging to the petitioners which was sought to be sold and not to the other items proposed to be sold under the impugned e-auction notice dated 06.11.2017.

Sri Harinder Singh, learned counsel representing Sri Dishit Bhattacharjee, learned counsel for the Canara Bank, the respondents herein, would inform this Court that even as regards the other items, in

relation to which there was no stay, the auction held on 11.12.2017 failed for want of bidders. As regards the petitioners' item of property, the sale was not even held owing to the stay granted by this Court.

In the light of the aforesaid developments, we are of the opinion that challenge to the impugned auction notice dated 06.11.2017 which was published in the newspapers on 10.11.2017 no longer survives for consideration on merits.

The writ petition is accordingly dismissed leaving all issues open.

Interim order dated 11.12.2017 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR,J

P.KESHAVA RAO,J

Date:06.02.2018

GJ