THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.40488 of 2017

ORDER: (*Per* Hon'ble Sri Justice Sanjay Kumar)

Challenge in this writ petition was to the e-auction sale notice dated 10.11.2017 published by the Bank of India in newspapers proposing to conduct the e-auction sale on 15.12.2017.

2. This auction sale notice was issued by the respondent Bank under Rule 9(1) of the Security Interest (Enforcement) Rules, 2002 (for short, the Rules of 2002) read with Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the SARFAESI Act) in relation to the petitioner's properties which were offered as security interest for the loan availed from the Bank of India. The ground of challenge was that the properties were proposed to be sold by fixing the reserve price therefor without securing valuation in terms of Rule 8(5) of the Rules of 2002.

3. By order dated 14.12.2017, this Court took note of the material placed on record by the petitioner and opined that the Bank had fixed the reserve price for at least 2 out of the 4 items of properties at its own discretion which was not on par with either the fair market value or the distress value fixed by the Bank valuer. This Court also found that the bank valuer had taken into account the registration authority's valuation but the same was not in keeping with the valuation by the registration authorities which

was produced by the petitioner. This Court accordingly granted interim stay of the auction scheduled to be held on 15.12.2017.

4. Smt.T.Vidya Rani, learned counsel for the Bank of India, would now inform this Court that the Bank would undertake fresh valuation of the secured assets in terms of Rule 8(5) of the Rules of 2002 and proceed in the matter in accordance with the due procedure.

5. Taking note of the said submission, this writ petition is allowed setting aside the auction sale notice dated 10.11.2017. This order shall however not preclude the bank from initiating action afresh in accordance with the due procedure prescribed under the SARFAESI Act and the Rules framed thereunder, obtaining as on date, for recovery of its dues. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Date: 26.07.2018
TJMR