THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.45194 of 2017

ORDER: (Per Justice Sanjay Kumar)

Challenge in this writ petition is to the order dated 13.12.2017 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.No.3465 of 2017 in S.A.No.1478 of 2017. The said I.A. was filed by the petitioner herein seeking stay of all further proceedings initiated by the UCO Bank, the first and second respondents herein, pursuant to the e-auction-cum-sale notice dated 10.11.2017 fixing the auction on 14.12.2017 in so far as the secured asset belonging to the petitioner was concerned. By the order under challenge, the Tribunal granted interim stay of the proposed sale subject to the petitioner depositing 10% of the outstanding amount within one week from the date of the order and another 10% amount within two weeks thereafter with the UCO Bank. In the event of failure to make either of these deposits, the Tribunal stated that the interim stay should stand vacated and the respondent bank would be at liberty to proceed with the sale of the property in accordance with law.

In effect, the sale which was proposed to be held on the next day stood effectively stalled as the petitioner had a week's time from the date of the order to make payment of 10% of the outstanding amount.

Sri G.Anand Kumar, learned counsel for the UCO Bank, would inform this Court that the petitioner failed to make the initial deposit of 10% of the outstanding amount as directed by the Tribunal.

We are distressed to note that the Tribunal passed orders on the subject application filed by the petitioner at the eleventh hour despite the fact that he had received the demand notice under Section 13(2) of the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as long back as in the year 2016 and was also well aware of the measures initiated by the bank under Section 13(4) thereof but chose to approach the Tribunal only after issuance of the sale notice. As the sale scheduled to be held on 14.12.2017 was successfully stalled at the instance of the petitioner, the bank would necessarily have to initiate measures afresh under Rule 9(1) of the Security Interest (Enforcement) Rules, 2002. This would involve publication of the notices in newspapers, whereby the bank would have to incur additional expenditure. No doubt, this expenditure would ultimately have to be borne by the borrowers, but the time and effort expended by the bank in effecting recoveries would have to go in vain at the behest of a borrower who did not even demonstrate any *bonafides,* as in the present case.

We therefore see no reason to interfere in the matter at this stage except to observe once again that the Debts Recovery Tribunal-I, Hyderabad, ought to have been more cautious and circumspect in entertaining the petitioner's application and stalling the sale scheduled to be held a day later.

The writ petition is accordingly dismissed with the above observation.

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

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SANJAY KUMAR, J

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J. UMA DEVI, J

Date: 05.01.2018
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