HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.1595 of 2019

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

The petitioner has come up with the above Writ Petition challenging a condition imposed by the Debts Recovery Tribunal for the grant of stay of an auction.

2. Heard Mr.T.Vijaya Kumar, learned Counsel for the petitioner, and Mr.Srikanth Reddy, learned Standing Counsel for the Bank.

3. As against an auction sale notice issued on 16.12.2018 proposing to hold an auction of the secured asset on 17.01.2019, the petitioner filed an appeal in S.A.No.22 of 2019 on the file of the Debts Recovery Tribunal-II, Hyderabad, under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and sought interim stay of further proceedings in I.A.No.191 of 2019. By an Order dated 16.01.2019, passed one day before the date of the intended auction, the Tribunal granted stay of confirmation of sale alone subject to certain conditions. The operative portion of the conditional order dated 16.01.2019 passed by the Debts Recovery Tribunal reads as follows:-

> "Having regard to the facts and circumstances of the case and in the interest of justice, I am not inclined to interdict the sale scheduled on 17.01.2019.

> Accordingly, the sale may go on. However, the Respondent Bank is directed not to register the sale certificate in favour of the highest bidder in the auction scheduled on 17.01.2019, subject to the petitioner-applicant depositing 40% of the total outstanding amount indicated in sale notice dated 16.12.2018 in two equal instalments – first instalment of 20% amount is directed to be deposited within one week from the date of this order and the second instalment of 20% amount is directed to be deposited within two weeks thereafter, directly with the Respondent Bank. In the event of failure of compliance of any of the above conditions, the Respondent Bank shall be at liberty to issue the register sale certificate in favour of the highest bidder in the auction scheduled on 17.01.2019, subject to outcome of the S.A."

4. Challenging the aforesaid conditional order, the petitioner came up with the above Writ Petition. On 30.01.2019 this Court ordered notice to the respondent.

5. Today Mr.Srikanth Reddy, learned Standing Counsel for the Bank, submits that since the petitioner failed to comply with the conditional order passed by the Debts Recovery Tribunal, the default clause incorporated in the order came to life and that the Bank confirmed the sale, received the balance sale consideration, issued the sale certificate and also had the sale registered. Therefore, the challenge to the conditional order of stay, cannot survive any more. Hence, the Writ Petition is dismissed, leaving it

open to the petitioner to work out her remedies before the Debts Recovery Tribunal by making suitable amendments etc.

Consequently, miscellaneous petitions if ay pending in the writ petition shall stand dismissed. No order as to costs.

V. Ramasubramanian,J

Abhinand Kumar Shavili, J

March 01, 2019
smr