

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAHA RAO

WRIT PETITION No. 1423 OF 2019

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

Challenging the sale notice, dated 24.12.2018, issued under the Security Interest (Enforcement) Rules, 2002, the petitioner has come up with the above Writ Petition.

2. Heard Sri D. Ramakrishna, learned counsel for the petitioner.

3. Ms. V. Dyumani, learned standing counsel, takes notice for the respondent.

4. The main grievance of the petitioner as against the impugned action is that by a letter, dated 18.06.2018, they were granted a proposal for revival of the Unit and that without fulfilling their obligations under the said letter, the Bank has proceeded to issue the sale notice.

5. But, the letter dated 18.06.2018 issued by the Bank, for the rehabilitation of the petitioner, which is a micro/small/medium enterprise, shows that the petitioner was supposed to comply with certain conditions. The conditions stated in the letter dated 18.06.2018 are as follows:

“

- 1) Submission of detailed project report, TEV report and other required financial statements.

- 2) To start the production in your plant immediately.
- 3) To sell off all the semi finished flats in the apartment as a whole and adjust the over dues in your loan accounts of our bank. For this the bank will issue no objection certificate on receipt of your request once you find the prospective buyer and you should initiate your immediate efforts for the same.
- 4) Bank has provided this opportunity to provide rehabilitation to your unit and your sincere efforts are required to full full your commitments as agreed upon by you.”

6. In the absence of any proof to show that the petitioner complied with condition Nos.1 and 2 stipulated in the letter, dated 18.06.2018, the petitioner cannot accuse the bank of non-cooperation in the matter of sale of semi-finished flats under condition No.3.

7. In any case, the question whether the petitioner complied with the conditions or not, is a question of fact, which can be adjudicated by the petitioner safely before the Debts Recovery Tribunal.

8. Therefore, leaving it open to the petitioner to approach the Debts Recovery Tribunal, this Writ Petition is dismissed. However, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

January 28, 2019
Gkv/Mgr