

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.1510 of 2019

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

1) Challenging a condition imposed by the Debts Recovery Tribunal for stay of further proceedings pursuant to the possession notice under Section 13 (4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act") and the sale of secured asset, the borrower has come up with the above writ petition.

2) Heard Mr.D.Raghavulu, learned counsel for the petitioner and Mr.E.Madan Mohan Rao, learned Standing Counsel for the respondent-bank.

3) By an order dated 22.01.2019, the Debts Recovery Tribunal granted an interim stay of confirmation of sale subject to two conditions. The conditions read as follows:

"Accordingly, the respondent bank may go ahead with the auction of the petition schedule properties as scheduled on 22.01.2019 but not to confirm the sale in favour of the highest bidder in the auction sale of the petition schedule properties in pursuance of the sale notice dated 12.12.2018 subject to the petitioner depositing 30% of the outstanding dues as claimed in the Sale Notice in two instalments – first instalment of 15% is directed to be deposited within one week from the date of this order and second instalment of

15% within two weeks thereafter directly with the Respondent bank. In the event of failure of compliance of any of the above conditions by the petitioner, the interim stay shall stand vacated and the Respondent Bank shall be at liberty to confirm the sale in favour of the highest bidder and proceed further in accordance with law.”

4) Challenging the said order, the petitioner came up with the above writ petition. On 29.01.2019 we passed the following interim order:

“Notice returnable in two weeks.

Personal Notice is permitted.

As per the order impugned in the Writ Petition, the petitioner should have deposited Rs.16,47,880/- on or before 29.01.2019 towards first instalment. But the petitioner has paid Rs.5.00 lakhs on 25.01.2019 and the petitioner merely seeks extension of time. Therefore there will be an interim stay subject to the condition that the petitioner pays the balance of the first instalment, on or before 12.02.2019. If such payment is made, the request for extension of time to make payment of the second instalment may be considered.

Post on 13.02.2019 for reporting compliance.”

5) Today it is reported that the aforesaid conditional order has been complied with.

6) Therefore, the first portion of the conditional order passed by the Debts Recovery Tribunal has been complied with by the petitioner, within the extended time granted by us. Hence what remains to be done is only the compliance of the second portion. We are of the considered view that if the petitioner is granted four weeks time to comply with the payment of second instalment as ordered by the tribunal, ends of justice would be met.

7) Therefore, the Writ Petition is disposed of modifying the conditional order passed by the Tribunal, recording the payment of first instalment as ordered by the Tribunal within the extended time and granting time to the petitioner upto 31.03.2019 for payment of the second instalment as ordered by the Tribunal. Once such a payment is made, the petitioner will have the benefit of stay of further proceedings pending disposal of the appeal before the Tribunal. If the petitioner fails to comply with the said order, the stay granted by the Tribunal shall stand vacated.

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

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 5, 2019
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WRIT PETITION No. 1510 of 2019 4225 of 2019

Date: 05.03.2019

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