

THE HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.1755 OF 2019

Date: 13.03.2019

Between:

Sri P.Mohan Gandhi S/o.Ranga Rao,
R/o.Nallakunta, Hyderabad.

... Petitioner

v.

State Bank of India,
Stressed Assets Resolution Centre,
Hyderguda, Hyderabad.
Rep. by its Authorized Officer.

... Respondent

For Petitioner : Mr. T. Vijay Kumar

For Respondent : Mr. S. Hari Prasad

Gist :

Head Note :

Cases Referred : Nil

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

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

Aggrieved by the rejection of a second stay petition, the borrower has come up with the above writ petition.

2. Heard Mr. T. Vijay Kumar, learned counsel for the petitioner and Mr. Hari Prasad, learned Standing Counsel for the respondent Bank.

3. The petitioner borrowed a housing loan from the respondent Bank. When he committed default, the Bank initiated steps. Challenging the steps initiated, the petitioner filed SA No.212 of 2018 and sought interim stay. The Tribunal passed a conditional order on 08.10.2018. The same was not complied with. Therefore, the Bank issued a fresh notice of sale.

4. Seeking stay of the fresh notice of sale, the petitioner moved I.A. No.165 of 2019 before the Debts Recovery Tribunal for stay. The Tribunal rejected the application on the ground that the conditional order of stay passed on the previous occasion was not complied with. Aggrieved by this, the petitioner is before us.

5. It is no doubt true that the first conditional order passed by the Tribunal on 08.10.2018 was not complied with. Therefore, the Tribunal cannot be found fault with, for rejecting the second stay application.

6. However, the case is one of housing loan. Therefore, we granted some indulgence while ordering notice in the writ petition on 31.01.2019. The order passed on 31.01.2019 reads as follows:

“Notice returnable by one week.
Personal notice is permitted.
In the meantime, the Bank may proceed with the auction but not confirm the same until further orders subject to the condition that the petitioner deposits a sum of Rs.2.00 lakhs on or before 07.02.2019.
Post on 07.02.2019 for service of notice and reporting compliance.”

7. It is admitted by both sides that the conditional order passed by this Court has now been complied with. In other words, the original conditional order of stay granted by the Tribunal on 08.10.2018 stands complied with. Therefore, we are of the view that the petitioner may have the benefit of stay pending disposal of the appeal.

8. Therefore, the writ petition is allowed, the impugned order is set aside and the petitioner is granted the benefit of stay pending disposal of S.A. No.212 of 2018.

9. However, since the possession notice issued by the Bank was of the year 2014, and a period of nearly five years has now passed, the Tribunal shall endeavour to dispose of S.A. No.212 of 2014 within a period of four (4) months.

10. The miscellaneous petitions, if any, pending shall stand closed. No costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

March 13, 2019
KTL



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