THE HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
THE HONOURABLE SRI JUSTICE KUNURU LAKSHMAN

WRIT PETITION NO.4165 OF 2019

O R D E R
(*Per Hon'ble Sri Justice Sanjay Kumar*)

The petitioner firm approached this Court aggrieved by the order dated 26.02.2019 passed by the Debts Recovery Tribunal-II, Hyderabad, in I.A.No.900 of 2019 in S.A.No.76 of 2019. The said securitisation application was filed by it assailing the action of Canara Bank in initiating proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*for brevity*, 'the SARFAESI Act'), including taking over of physical possession of the petition schedule property pursuant to the sale notice dated 14.01.2019 whereby the date of auction thereof was fixed as 28.02.2019.

2. By the order dated 26.02.2019, the Tribunal stated that it was not inclined to grant stay of the proposed auction sale but directed the bank not to register the sale certificate in favour of the highest bidder, subject to the petitioner depositing 30% of the outstanding dues as mentioned in the said sale notice in two instalments – the first instalment of 15% within 10 days from the date of the order and the second instalment of 15% within two weeks thereafter. The Tribunal granted liberty to the bank to proceed with registration of the sale certificate in favour of the highest bidder if the petitioner failed to comply with either of the conditions.

3. Aggrieved by the conditions imposed, the petitioner came before this Court. By order dated 27.02.2019 passed in I.A.No.1 of 2019 filed in this writ petition, this Court permitted the bank to hold the auction of the property but clarified that it should not be finalised during the pendency of the writ

petition. The bank was also directed to make it clear that the end result of the auction would be subject to the decision in this case.

4. Having heard Sri E.Madan Mohan Rao, learned counsel representing M/s. Pillix Law Firm, learned counsel for the petitioner firm, Sri B.Chandrasen Reddy, learned counsel for Canara Bank, and Sri N.Jagan Reddy, learned counsel for the impleaded auction purchaser, the third respondent herein, we are of the opinion that the appropriate course of action would be for the petitioner to address the issues now raised in this writ petition in the pending securitisation application. Those issues are yet to be adjudicated therein and it would be premature for this Court to step in at this stage and render any opinion on merits.

5. In so far as the conditions imposed by the Tribunal are concerned, we are of the opinion that the same cannot be said to be onerous or harsh. Having allowed the bank to proceed up to the stage of an auction, it would not be open to the petitioner to stall the same unconditionally.

6. We therefore extend the time for the petitioner to make the deposit as directed by the Tribunal. As the said order was passed as long back as on 26.02.2019, the petitioner is given four weeks from the date of receipt of a copy of this order to deposit the 30% amount as directed by the Tribunal to the credit of S.A.No.76 of 2019. Upon such deposit being made, the Tribunal may consider any application filed by the petitioner for amendment of the pleadings/prayer in the securitisation application and thereafter proceed with the hearing of the matter on merits in accordance with law. The Tribunal shall be mindful of the mandate of Section 17(5) of the SARFAESI Act and endeavour to dispose of the securitisation application expeditiously and in terms thereof. The interim order granted by the Tribunal on 26.02.2019 shall

continue to operate pending disposal of the securitisation application in the event the petitioner makes the deposit as directed within the extended time.

7. The writ petition is accordingly disposed of. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

KUNURU LAKSHMAN, J

26th AUGUST, 2019

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