

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.5507 OF 2019

Date: 20.03.2019

Between:

Smt. E. Divya D/o.Bhoopal Reddy,
Snehapuri Colony, Uppal.

... Petitioner

v.
Andhra Bank, Kachiguda Branch,
Kachiguda, Hyderabad.

... Respondent

For Petitioner : Mr. D. Raghavulu

For Respondenta : Smt. V. Dyumani

Gist :

Head Note :

Cases Referred : Nil

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.5507 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 (DRT) for the grant of stay of confirmation of sale and for further proceedings.

2. Heard Mr. D. Raghuvulu, learned counsel for the petitioner and Smt. V. Dyumani, learned Standing Counsel for the Bank.

3. The sale was fixed on 28.02.2019. On 26.02.2019, the DRT passed a conditional order, which reads as follows:

“Accordingly, there shall be an interim stay of all further proceedings pursuant to sale notice dated 06.02.2019 fixing the date of auction as 28.02.2019, subject to petitioner-applicant depositing 30% of outstanding dues as mentioned in the sale notice dated 06.02.2019 in two instalments – the 1st instalment of 15% is directed to be deposited on or before the time and date of auction and 2nd instalment of 15% is directed to be deposited within two weeks thereafter directly with the 1st respondent bank. In the event of failure of compliance of any of the above mentioned conditions, the 1st respondent bank shall be at liberty to proceed against the petition schedule property as per rules.”

4. On 27.12.2019, one day before the date of the auction, the petitioner paid the 1st instalment and complied with the first condition imposed by the DRT. Thereafter, the petitioner came up with the above writ petition, seeking only enlargement of time for complying with the conditional order. Therefore, we granted an interim stay on 18.03.2019.

5. Today, it is admitted by the learned counsel for the Bank that the first instalment was paid within time. But, according to the learned counsel for the Bank, the second instalment was not paid as per the order of the DRT and that therefore, the auction was confirmed on 15.03.2019. But as pointed out earlier, the date of auction was 28.02.2019 and the date of the interim order was 26.02.2019. The petitioner has paid the first instalment of 15% of the dues as directed by the Tribunal on 27.02.2019. Therefore, the enlargement of time for complying the second condition, would have enabled the Bank to get 30% of the dues even while retaining the security. Therefore, we are of the view that the time sought for by the petitioner should be granted.

6. Hence, the writ petition is disposed of modifying the impugned order of the Tribunal granting time for the petitioner upto 10.04.2019 for payment of the second instalment of 15% as ordered by the Tribunal. If the petitioner pays the said amount, further proceedings pursuant to the sale shall stand stayed till the disposal of the appeal by the DRT. If the petitioner fails to comply with the conditional order, it is open to the Bank to proceed further.

7. The miscellaneous petitions, if any, pending shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

March 20, 2019
KTL