

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.11269 OF 2019

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Mr. P. Hari Prasad, learned counsel, takes notice for the respondent bank.

2. The petitioners have come up with the above writ petition challenging an auction sale notice, dated 22.05.2019, issued under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. It appears that the bank originally issued an auction sale notice on 20.03.2019 fixing the date of auction as 26.04.2019. Immediately, the petitioners moved an appeal in S.A. No.155 of 2019 and sought stay of the auction.

3. The Tribunal passed an interim conditional order of stay on 24.04.2019 in the said application, I.A. No.1995 of 2019 in S.A.No.155 of 2019. The condition was that the petitioners should pay 15% of the dues before the date of the auction and another 15% within two weeks thereafter.

4. The date on which the interim order was passed by the Tribunal was 24.04.2019. The date of auction was 26.04.2019. Despite the grant of just two days, the petitioners mobilized funds and complied with the first condition of payment of 15%. Therefore, the auction scheduled to be held on 26.04.2019 got stalled.

5. However, the petitioners could not pay the second installment. Therefore, contending that there is no stay, bank has issued a fresh notice, dated 22.05.2019. It is against the said notice that the petitioners have come up with the above writ petition.

6. Technically, there is no mistake on the part of the bank in issuing the impugned notice, since the notices were issued consequent upon the failure of the petitioners to comply with the conditional order passed by the Tribunal. The conditional order passed by the Tribunal was also not challenged.

7. However, the only ground on which the case of the petitioners can be considered is that they only want a little more time to comply with the second condition. The amount payable towards the second installment is around Rs.33.00 lakhs. The petitioners are prepared to pay half of the said amount today and remaining half within two weeks.

8. In the light of the above, the writ petition is disposed of, granting time to the petitioners to comply with the second condition imposed by the Tribunal by order dated 24.04.2019, on or before 27.06.2019. In other words, the second installment payable by the petitioners shall be paid on or before 27.06.2019. Since the auction is slated to be held today, the bank may proceed with the auction, but shall not confirm it until 27.06.2019. If the petitioners comply with the above condition, the auction may stand cancelled. If the petitioners fail to comply with the condition on or before 27.06.2019, the auction

may be confirmed. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

June 13, 2019
Mgr

