

HONOURABLE SRI JUSTICE SANJAY KUMAR

AND

HONOURABLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.18586 of 2019

ORDER: (per Honourable Sri Justice Sanjay Kumar)

Challenge in this writ petition is to the auction notice dated 30.07.2019 issued by the respondent, Andhra Bank, proposing to hold the auction sale of the secured asset on 30.08.2019. The primary ground on which the petitioner company assails the notice is that it was never served the demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short 'SARFAESI Act').

2. Sri V. Murali Manohar, learned counsel representing Smt. V. Dyumani, learned counsel for the bank, placed before us a copy of the demand notice issued by the bank. Perusal thereof reflects that though the petitioner company is named therein as one of the addressees, there is no proof of service of the said notice upon it. The promoter of the company was also shown as an addressee in his individual capacity and he alone was served with the notice. As the petitioner company has a separate and independent legal status, it necessarily had to be served with a copy of the demand notice. Without abiding by this procedure, the bank could not have proceeded up to the stage of sale of the secured asset belonging to the company.

3. The Writ Petition is accordingly allowed setting aside the impugned auction sale notice on this ground. This order shall however not preclude the bank from again initiating proceedings afresh under the SARFAESI Act.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.

SANJAY KUMAR, J

K. LAKSHMAN, J

August 29, 2019.

PV

