THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETIITON No.19079 of 2019

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

Petitioner is the applicant in SA.No.234 of 2019 on the file of the Debts Recovery Tribunal-I, Hyderabad. The said securitization application was filed by him under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act' for short), assailing the possession notice issued by the State Bank of India under Section 13(4) thereof read with Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. He filed IA.No.2433 of 2019 therein seeking stay of all further proceedings, including taking over of the physical possession of the secured asset, pursuant to the impugned possession notice. By docket order dated 22.08.2019, the Tribunal granted a stay as prayed for, subject to the petitioner depositing Rs.2,00,000/- in two instalments – the first instalment of Rs.1,00,000/- within one week from the date of the order and the second instalment of Rs.1,00,000/- within three weeks thereafter. Aggrieved by the conditions imposed, the petitioner is before this Court.

2. Sri S. Maruthi Rao, learned counsel for the petitioner, would state that the petitioner could not adhere to loan repayment schedule owing to his personal tragedies. He would state that the petitioner's mother died in 2016 while his wife expired on 14.05.2018 due to the accidental collapse of a parapet wall. He filed a death certificate along with the affidavit in support of the said statement.

3. In that view of the matter, we are of the opinion that the petitioner would be entitled to some indulgence in terms of extension of the time frames fixed by the Tribunal.

4. Sri Maruthi Jadhav, learned counsel representing M/s. Pearl Law Associates, learned counsel for the State Bank of India, would point out that the Tribunal has been generous in directing the petitioner to make payment of only 20% of the amount due though the usual order passed in matters of this nature by the Tribunal requires 30% to be deposited.

5. We are however inclined to extend some indulgence to the petitioner owing to the grounds cited supra.

The writ petition is accordingly disposed of permitting the petitioner to deposit the first instalment of Rs.1,00,000/- to the credit of his loan account by the end of working hours on 13.09.2019. He shall thereafter deposit the second instalment of Rs.1,00,000/- within three (3) weeks thereafter i.e. by the end of working hours on 04.10.2019. In the event the petitioner fails to abide by the time stipulations stated supra, this order shall stand withdrawn and the writ petition shall stand dismissed leaving it open to the bank to take steps in accordance with due procedure. Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

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SANJAY KUMAR, J

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K. LAKSHMAN, J

September 3, 2019/DSK