

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.42351 of 2018

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

Challenging the conditional order of stay granted by the Debts Recovery Tribunal in an appeal under Section 17 of the SARFAESI Act, 2002, the guarantors have come up with the above Writ Petition.

Heard Mr.D.Raghavulu, learned Counsel for the petitioners and Mr.M.V.K.Viswanadham, learned Standing Counsel for the 1st respondent - Bank.

In view of the nature of the disposal, it may not be necessary to incorporate all factual details. Suffice it to say that the petitioners filed an appeal in S.A.No.197 of 2018 under Section 17 of the SARFAESI Act, 2002, on the file of the Debts Recovery Tribunal-I, Hyderabad, challenging the action of the Bank in attempting to take physical possession through an order under Section 14 of the SARFAESI Act, 2002. The Tribunal granted a conditional order of stay, the operative portion of which reads as follows:

“However, having regard to the facts and circumstances of the case and in the interest of justice, interim relief can be granted on certain conditions. Accordingly, there shall be an interim stay of all

further proceedings including taking physical possession of the schedule properties pursuant to the Advocate Commissioner's notice dated 25.09.2018 in Crl.M.P.No.6221 of 2018 returnable on 26.10.2018 on the file of CMM, Hyderabad, subject to the petitioners depositing 25% of the total outstanding dues as claimed in possession notice in two instalments; first instalment of 10% is directed to be deposited within one week from the date of this order and the second instalment of 15% amount within two weeks thereafter, directly with the respondent bank. In the event of failure of compliance of any of the aforesaid conditions by the petitioners/applicants, the interim stay shall stand vacated and the respondent bank shall be at liberty to proceed further in accordance with law."

Though the petitioners came up with the above writ petition challenging the conditional order, we took note of the past conduct of the petitioners and allowed them only to limited relief of extension of time to comply with the conditional order passed by the Debts Recovery Tribunal. The order passed by this Court on 23.11.2018 reads as follows:

"Mr.M.V.K.Viswanadham, learned Senior Counsel takes notice for the respondents.

From the past history narrated by the learned Counsel for the Bank, this case appears to have had a chequered history. Therefore, the only

concession that could be granted to the petitioners is the enlargement of time for complying with the conditional order passed by the Bank. Therefore, there will be an interim stay subject to the petitioners complying with the first part of the condition imposed by the Tribunal on or before 24.12.2018, failing which the stay will stand vacated.

If the first part of the condition is complied with, by that time, more time can be granted for complying with the second part of the condition.

Post on 26.12.2018 for reporting compliance.”

It is reported today that the aforesaid conditional order has been complied with and the 1st instalment of payment as ordered by the D.R.T. has now been paid within the extended time granted by us. Therefore, the only question that remains is as to whether we should grant time for payment of the 2nd instalment also.

Though Mr.M.V.K.Viswanadham, learned Counsel for the 1st respondent – Bank, objected to the grant of time on the ground that from the date of interim order of the Tribunal, a period of more than four months have passed, we are of the view that a meaningful understanding has to be given to the interim order passed by us on 23.11.2018.

Therefore, the Writ Petition is disposed of granting time to the petitioners to comply with the second condition imposed by the D.R.T. up to 15.03.2019. In other words, the petitioners shall pay the second instalment of 15% as ordered by the Tribunal on or before 15.03.2019. If the petitioners fail to comply with this conditional order, the stay will stand automatically vacated. If the petitioners comply with this conditional order, they will have the benefit of interim stay granted during the pendency of the appeal in S.A.No.197 of 2018 before the Tribunal. The Tribunal shall endeavour to dispose of the appeal in S.A.No.197 of 2018 within a period of four months.

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

V.RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

28.02.2019
Gsn.