HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.42370 of 2018

ORDER: *(per V. Ramasubramanian, J)*

1) The petitioner has come up with the above writ petition challenging the attempt of the bank to take physical possession of the property by taking an order under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act").

2) Heard Mr.Raghavulu, learned counsel for the petitioner and Mr.Sashi Kiran, learned counsel for the first respondent-bank.

3) The petitioner filed an appeal in S.A.No.283 of 2018 under Section 17 of the Securitization Act, 2002 before the Debts Recovery Tribunal-II, Hyderabad and sought interim stay of further proceedings pursuant to the order of the Chief Metropolitan Magistrate, Nampally, in an application under Section 14 of the Securitization Act. By an order dated 20.07.2018, the Tribunal granted stay subject to the condition that the petitioner deposited Rs.55.00 lakhs on or before 27.07.2018 and another sum of Rs.55.00 lakhs within three weeks thereafter.

4) Challenging the said conditional order, the petitioner filed an appeal before the Debts Recovery Appellate Tribunal. The

Appellate Tribunal could not entertain the appeal due to failure of the petitioner to comply with the pre-deposit condition. But the petitioner showed payment of Rs.10.00 lakhs and sought waiver. The waiver was not granted. Therefore, the petitioner came up with the above writ petition.

5) On 23.11.2018 this Court, while ordering notice, passed a conditional order to the following effect.

> "Notice before admission returnable in four (04) weeks. Personal Notice is permitted. Post after four (04) weeks.
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> There will be an interim stay on condition that the petitioner deposits Rs.45.00 lakhs (representing the first instalment of Rs.55.00 lakhs as ordered by the Debts Recovery Tribunal on 20.07.2018, less the amount of Rs.10.00 lakhs paid as a pre-deposit condition at the time of filing of the appeal before the Debts Recovery Appellate Tribunal), within a period of eight (8) weeks. But, the said amount of Rs.45.00 lakhs shall be paid in two equal instalments, the first half being paid on or before 24.12.2018 and the second half being paid on or before 24.01.2019. Even if any one of these conditions is not complied with, the stay will stand automatically vacated."

6) Thereafter, the petitioner came up with an application for extension of time to comply with the first part of the condition imposed in the aforesaid order. This application for extension of time was allowed on 28.01.2019. The order passed in I.A.No.2 of 2018 on 28.01.2019 reads as follows:

> "This is an application seeking extension of time to comply with the first part of the condition imposed by this Court on 23.11.2018.

The order passed on 23.11.2018 reads as follows:

"Notice before admission returnable in four (4) weeks.

Personal notice is permitted.

Post after four (4) weeks.

There will be an interim stay on condition that the petitioner deposits Rs.45.00 lakhs (representing the first installment of Rs.55.00 lakhs as ordered by the Debts Recovery Tribunal on 20.07.2018, less the amount of Rs.10.00 lakhs paid as a pre-deposit condition at the time of filing of the appeal before the Debts Recovery Appellate Tribunal), within a period of eight (8) weeks. But, the said amount of Rs.45.00 lakhs shall be paid in two equal installments. The first half being paid on or before 24.12.2018 and the second half being paid on or before 24.01.2019. Even if any one of these conditions is not complied with, the stay will stand automatically vacated"

In complying with the first condition, there has been a delay of ten days. Instead of paying the amount on or before 24.12.2018, the petitioner paid part of the amount on 24.12.2018 and the balance amount on 03.01.2019.

However, the second installment payable on 24.01.2019 was paid on 22.01.2019.

Therefore the application is allowed."

7) Today it is stated that the orders have been complied with. In other words, the conditions imposed by the Debts Recovery Tribunal by order dated 20.07.2018 now stands complied with, by virtue of the time granted by this Court. Hence, nothing survives for adjudication both in the appeal before the Debts Recovery Appellate Tribunal and in the above writ petition. Hence, the Writ Petition is disposed of with the following directions.

1) By virtue of the payments now made by the petitioner, the conditional order dated 20.07.2018 passed by the Debts Recovery Tribunal-II in S.A.No.283 of 2018 shall be deemed to have been complied with, though belatedly.

2) As a consequence the petitioner will have the benefit of interim stay of further proceedings pending disposal of the appeal before the Tribunal.

3) The appeal filed by the petitioner before the Debts Recovery Appellate Tribunal shall stand closed, after giving credit to the payment of Rs.10.00 lakhs made at the time of filing of the appeal.

4) The Tribunal may now independently decide the S.A.No.283 of 2018 within a period of four months.

8) As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 18, 2019
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HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 42370 of 2018

Date: 18.02.2019



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