HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.41972 of 2017

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

1) Aggrieved by the imposition of a condition for the grant of stay of an auction held under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act"), the borrower has come up with the above writ petition.

2) Heard Mr.B.Chandrasen Reddy, learned counsel for the petitioner and Mr.S.Sainathan, learned counsel appearing for the respondent-bank.

3) The petitioner availed a term loan and an open cash credit limit for running a poultry business. After the account became a non-performing asset, the bank initiated measures under the Securitization Act.

4) When the bank issued an e-auction notice dated 18.08.2017, the petitioner filed S.A.No.1005 of 2017 under Section 17 of the Act challenging the measures before the Debts Recovery Tribunal-II, Hyderabad. Pending the appeal, the petitioner sought interim stay in I.A.No.2665 of 2017.

5) By an order dated 25.09.2017 the Tribunal granted stay on condition that the petitioner deposited 20% of the outstanding dues in two equal instalments, the first being made on or before the date of the auction and the second being made within two weeks thereafter. Challenging the said condition, the petitioner has come up with the above writ petition.

6) On 11.12.2017 when the above writ petition came up for orders as to admission, the counsel for the bank took notice and no interim order was granted on that date. However, on 23.03.2018 it was made clear that the results of the auction held on 26.03.2018 will be subject to further orders to be passed in the writ petition.

7) It is now represented that neither in the auction held on 26.03.2018 nor in the subsequent auction held on 04.02.2019 there were any successful bidders.

8) The main contention of the petitioner is that a part of the property in question is still an agricultural land and that by virtue of Section 31 (i) of the Securitization Act, 2002, the property cannot be brought to sale. But this contention is pending adjudication before the Debts Recovery Tribunal in the main appeal.

9) Even assuming without admitting that the petitioner has a good *prima facie* case the same is not sufficient for grant of an interim order. Therefore, the Tribunal was right in imposing a reasonable condition for the grant of stay. All that can be done at this stage is

only to enlarge the time granted by the Tribunal for complying with the conditional order.

10) Therefore, the impugned order does not deserve to be interfered with. However, considering the fact that the writ petition was pending for morethan a year, the time prescribed by the Tribunal for complying with the conditional order is extended by eight weeks from the date of receipt of a copy of the order. If the petitioner fails to comply with the condition, there will be no stay and the bank will be at liberty to proceed further subject to all the objections being adjudicated in the appeal.

11) Accordingly, the Writ Petition is disposed of.

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

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

February 05, 2019
gkv/smr