THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HON'BLE SRI JUSTICE K.LAKSHMAN

W.P.NOS.10778, 10779, 10780 AND 10781 OF 2020

COMMON ORDER (Per the Hon'ble Sri Justice A.Rajasheker Reddy)

Petitioner in all these writ petitions is M/s Whitefield Homes Pvt. Ltd., and it is represented by its authorized signatory. The case of the petitioner in all these writ petitions is that it purchased the subject property under registered sale deeds and its name has been mutated in the revenue records and that when a dispute arose in respect of the subject lands, suit in O.S.No.826 of 2013 was filed on the file of II Additional chief Judge, City Civil Court, Hyderabad against the private respondents and others for declaration, and though the said suit was dismissed for default, interlocutory application was filed for restoration, and the same is pending for consideration as on today. The further case of the petitioner - Company is that the private respondents have no right or title over the subject property, and that by creating sham and forged documents, they mortgaged the subject property with the Bank and created charge and borrowed amounts and failed to discharge, and hence the Bank brought the subject property to sale and issued the sale notices dated 12.06.2020 for sale of immovable assets under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with the provision under Rule 8(6) of the Security Interest (Enforcement) Rules 2002. Hence, aggrieved by the said sale notices, the present writ petitions have been filed.

Sri A.Venkatesh, learned counsel appearing for the petitioner in all these writ petitions, while reiterating the above noted averments, further submits that the sale is in violation of the provisions of the Act. He submits that the sale notice shall be published in the local newspaper where the property is situated, but the same has not been published. He further submits *inter alia* that the sale notice was issued during the lockdown period on account of Covid – 19, and that when the petitioners intended to approach the Debts Recovery Tribunal to assail the impugned sale notices, the Web site of the Tribunal was not accessible to the petitioners for e-filing, and it was informed that the web site was shutdown for maintenance, and as such, the petitioners are constrained to approach this court under Article 226 of the Constitution of India. He submits that if some time is granted to the petitioner - company by protecting its interests, it will approach the Tribunal.

On the other hand Smt. V.Dyumani, learned Standing Counsel for the 1st respondent – Bank vehemently opposed for entertaining the writ petitions. She submits that the Tribunal is very much functional and that the petitioners without availing the alternative remedy, approached this court under Article 226 of the Constitution of India and hence the writ petitions cannot be entertained. She further submits that, as per the case of the writ petitioners there is dispute with regard to title and hence such disputes questions of fact cannot be gone into by this court under the writ jurisdiction. Therefore, she submits that the writ petitions are not maintainable and the same may be dismissed.

It is an undisputed fact, that because of the Covid – 19 pandemic, which is prevailing as on today, this court issued orders for extension of interim orders and the Apex Court also in exercise of its plenary jurisdiction under Article 142 of the Constitution of India, has extended the period of limitation for filing appeals. Therefore, in these facts and circumstances, without going into the merits of the matter, we are of the considered view, that in the interest of justice, petitioner – company is required to be given certain time for approaching the Tribunal by protecting its interest in the meanwhile.

Accordingly, the writ petitions are disposed of granting liberty to M/s Whitefield Homes Pvt Ltd., which is petitioner in all the writ petitions, to approach the Debts Recovery Tribunal concerned within a period of one week from the date of receipt of a copy of this order. Till then, there shall be stay of auction.

It is made clear that in case of default in approaching the Tribunal within the time allowed in this order, the interim protection, stands automatically vacated, and it will be open for the Bank to proceed further in accordance with law.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

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A.RAJASHEKER REDDY,J

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K.LAKSHMAN,J

DATE:17—07—2020

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