

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY**

**PRESENT
THE HONOURABLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HONOURABLE SRI JUSTICE A.ABHISHEK REDDY**

CONTEMPT CASE NO: 853 OF 2019

(Contempt Case U/s. 10 to 12 of Contempt of Courts Act to punish the Respondents herein for wilful disobedience of the Orders of the High Court dated 28/02/2019 in WP No.38891/2018)

Between:

1. M/s Bhavani Industries, H.No.4-2-141/A, Stantanpuram Road, Near Railway Gate, Peddapalli, rep. by its Managing Partner Venkat Rao
2. T.Venkat Rao, S/o T.Narsing Rao, H.No.4-2-141/A, Near Railway Gate, Peddapalli.

...PETITIONERS

AND

1. Banavath Suresh, Incharge Manager, The Sate Bank of India, Peddapally Town, Peddapally Branch, rep. by its authorised Officer
2. Ch.V.Satyanarayana, Assistant General Manager, Stressed Assets Recovery Branch, State Bank of India, TSRTC Commuter Amenity Centre, Bus Terminal Complex, Koti, Hyderabad.

...RESPONDENTS

**For the Petitioners : SRI A.SUDERSHAN REDDY LEARNED SENIOR COUNSEL
APPEARING FOR SRI G.MADHUSUDHAN REDDY, Advocates**

For the Respondents : SRI AMBADIPUDI SATYANARAYANA, Advocate

The Court made the following: ORDER

ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present Contempt Case is filed alleging deliberate and willful disobedience of the Order, dated 28.02.2019, passed by a Coordinate Bench of this Court in W.P.No.38891 of 2018.

2. Brief facts of the case are that the petitioners have availed credit facilities from State Bank of India (in short 'the Bank'). When the loan was not repaid in time, the account was declared as 'Non-Performing Asset' (NPA). But, when some of the secured assets given as securities were sought to be auctioned, the petitioners filed S.A. No.286 of 2016 before the Debts Recovery Tribunal (in short 'DRT') by invoking the provision under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'Act, 2002'). Vide order, dated 27.07.2016, the DRT directed the Bank to proceed with the sale, but not to confirm the sale. Subsequently, the said appeal was disposed of setting aside the sale in respect of one of the secured assets, and confirming the sale in respect of another asset. In the interregnum, number of cases were filed between the petitioners and the Bank regarding the sale of one of the secured assets. Pending the same, the petitioners approached the Bank seeking to extend 'One Time Settlement' (in short 'OTS'), to which the Bank had issued an OTS offer letter, dated 14.08.2018. Subsequently, the bank had issued a communication, dated 08.10.2018, intimating to the petitioners that they were not eligible for the OTS scheme for two reasons viz., (1) that they had not chosen to withdraw the Court Cases; and (2) that they

had not given up their claims against the property sold in the e-auction held on 29.07.2016. The petitioners have filed the writ petition, questioning the said Communication, before this Court. A Division Bench, after going through the pleadings and record, came to the conclusion that the above mentioned two conditions taken by the Bank for rejecting the OTS were not proper and arbitrary. Therefore, learned Coordinate Bench set aside the impugned communication, dated 08.10.2018, which holding as under:

25. ... Therefore, all that we can do is to direct the bank to reconsider their decision within a time frame and to direct the bank further not to proceed with any coercive action till a decision is taken.
26. Therefore, the Writ Petition is allowed. The impugned communication, dated 08.10.2018, is set aside and a direction is issued to the bank to reconsider the matter and take a decision within a period of eight (08) weeks from the date of receipt of a copy of this order. Till then, no further steps under Act, 2002, in respect of any properties (sold or unsold) shall be taken. However, in the circumstances of the case, there shall be no order as to costs.

3. Thereafter, the Bank has written a letter, dated 16.04.2019, intimating the petitioners that they were due an amount of Rs.3,18,56,776/- (Rupees Three Crores Eighteen Lakhs Fifty Six Thousands Seven Hundred and Seventy Six only) and to come forward for a compromise within ten days from the date of receipt of the said letter. In the said communication, it was stated that an amount of Rs.36,51,000/- (Rupees Thirty Six Lakhs Fifty One Thousands only) was received from the e-auction held on 29.07.2016 in respect of the two storied residential building, bearing H.No.4-2-140/2, Koonaram Road,

Peddapalli Mandal of Karimnagar District. The petitioners, vide letter, dated 24.04.2018, replied that the earlier letter of the Bank, dated 14.08.2018, stated that only an amount of Rs.1,28,32,152/- (Rupees One Crore Twenty Eight Lakhs Thirty Two Thousands One Hundred and Fifty Two only) was due and the said figure should be accepted by the Bank and also return the papers of all the mortgaged properties. Thereafter, the Bank vide letter, dated 31.08.2019, stated that the outstanding OTS amount of Rs.1,00,93,902/- (Rupees One Crore Ninety Three Thousands Nine Hundred and Two only) is due from the petitioners and also reiterated the stand that the petitioners cannot claim any right on the property, which was already auctioned. The petitioners have replied to the above letter, dated 31.08.2019, vide letter, dated 21.09.2019, that they are willing to accept the OTS by 23.09.2019. Subsequently, vide letter, dated 24.09.2019, the Bank has stated as under:

As you have failed to convey your unconditional willingness before 23/09/2019 to settle the dues strictly as per the terms and conditions conveyed to you vide our letter No.SBI/SARB/VRN/OTS/307 dated 31.08.2019, your eligibility to settle the dues under SBI OTS 2019 stands cancelled.

4. The petitioners have filed the present Contempt Case alleging that the above letter, dated 24.09.2019, is contrary to the directions of this Court in W.P.No.38891 of 2018, dated 28.02.2019, and amounts to deliberate and willful disobedience of the order of this Court.

5. Sri A.Sudershan Reddy, the learned Senior Counsel appearing for the petitioners, has strenuously contended that the letter issued by the Bank, dated 31.08.2019, and the consequent letter, dated 24.09.2019, are contrary to the order passed by this Court in W.P.No.38891 of 2018, dated 28.02.2019. The learned Senior Counsel has contended that on the earlier occasion when the Bank had taken a stand that the petitioners are not entitled for the return of the auctioned premises, and that the proceeds of the sale will be adjusted to the loan account, this Court had found fault with the said stand and remitted back the matter to the Bank for taking a fresh call on the OTS. In that view of the matter, the officials of the Bank have deliberately violated the orders of this Court. Secondly, pursuant to the letter, dated 21.09.2019, addressed by the Bank, the petitioners have already paid part of the amounts to the Bank. Therefore, the letter dated 24.09.2019 issued by the Bank conveying that the eligibility of the petitioners to settle the dues under SBI OTS 2019, stands cancelled, is not only contrary to the record, but is also against the purport of the order, dated 28.02.2019, passed by the Division Bench in W.P.No.38891 of 2018.

6. Per contra, the learned counsel for the respondents-contemnors has submitted that after the matter was remitted by this Court, the Bank had initially written a letter, dated 16.04.2018, to the petitioners to come forward for a compromise. Thereafter, based on the reply given by the petitioners vide letter, dated 24.04.2018, the Bank had offered

settlement under OTS scheme vide letter, dated 31.08.2019, in which it was clearly mentioned that the petitioners were advised to show their willingness to settle the dues by 23.09.2019. But the willingness letter of the petitioners, dated 21.09.2019, was received by the Bank on 24.09.2019. Therefore, the OTS offer, dated 31.08.2019, was withdrawn and cancelled. Even the amounts which the petitioners claim to have remitted to the loan account are also after 23.09.2019. Hence, for the lapses committed by the petitioners themselves, the respondents cannot be found fault with. Thus, the respondents have not violated the orders of this Court.

7. Heard Sri A.Sudershan Reddy, the learned Senior Counsel appearing on behalf of the petitioners, and Sri Ambadipudi Satyanarayana, the learned counsel for the respondents-contemnors. Perused the record.

8. Admittedly, while passing the order, dated 28.02.2019, in W.P.No.38891 of 2018, this Court was conscious of the fact that it could not enter into the realm of the financial affairs of the Bank. Therefore, this Court remanded the matter back to the Bank to reconsider their decision regarding OTS within a particular time frame. But this Court has nowhere indicated in its order as to whether the earlier sale of the secured asset is to be taken into account or not, and whether the sale of the secured asset was liable to be set aside or not. As seen from the record, pursuant to the direction of this Court, the Bank had offered OTS, vide letter, dated 31.08.2019, which the petitioners

ought to have accepted within the time stipulated by the Bank, if they were really interested in settling the issue. But for the reasons best known to the petitioners they did not reply to the Bank till 21.09.2019 (which was received by the Bank on 24.09.2019 i.e. after the date by which they should have given their willingness accepting the OTS). Even the amount which is stated to have been deposited in the loan account was done on 27.09.2019. In view of the above, there is no deliberate or intentional violation of the order of this Court by the Bank.

9. It is well settled principle of law, as held by the Hon'ble Supreme Court as well as this Court in a number of cases, that the powers of the Courts under the Contempt of Courts Act are limited. The only limited issue before the Courts would be to see whether there is any deliberate or intentional or willful violation of the orders passed by the Court by the contemnors or not. It is not for this Court to sit in appeal while dealing a Contempt Case as to whether the offer made by the Bank under the OTS scheme is proper or not. This Court while exercising the jurisdiction of Contempt of Courts Act cannot go into the legality or otherwise of the offer made by the Bank under the OTS scheme. Therefore, we do not find any deliberate or intentional violation of the orders passed by this Court by the respondents. If the petitioners are aggrieved by the action of the Bank in canceling the OTS Scheme offered to them, they are free to challenge the same in appropriate proceedings before an appropriate Forum.

10. For the afore-stated reasons, the Contempt Case is devoid of merit; the same is, accordingly, dismissed.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

Sd/-C.V.MALLIKARJUNA VARMA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. Banavath Suresh, Incharge Manager, Sate Bank of India, Peddapally Town, Peddapally Branch, Karimnagar District.
2. Ch.V.Satyanarayana, Assistant General Manager, Stressed Assets Recovery Branch, State Bank of India, TSRTC Commuter Amenity Centre, Bus Terminal Complex, Koti, Hyderabad.
3. One cc to Sri G.Madhusudhan Reddy, Advocate [OPUC]
4. One cc to Sri Ambadipudi Satyanarayana, Advocate [OPUC]
5. Two CD Copies

Kj.



HIGH COURT

DATED:06/03/2020



ORDER

CC.No.853 of 2019

Dismissing the CC without costs.

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