HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

AND

HONOURABLE Dr.JUSTICE SHAMEEM AKTHER

WRIT PETITION No.15679 of 2021

ORDER: ***(Per Hon'ble Sri Justice A. Rajasheker Redddy)***

This Writ Petition is filed for the following relief:

> "…to issue a writ order or direction more in the nature of writ of Mandamus declaring the action of the Respondents in rejecting the case of the petitioners' CC Account No 62105928836 for One Time Settlement under SBI OTS-2020 issued in SARG/KKT dated 12/10/2020 through communication bearing No.SARB/HYD/DRK/202122/206 dated 28/06/2021 and in proceeding with the Sale of Immovable Properties of the petitioners under Sale Notices dated 08/06/2021 and 11/06/2021 under the provisions of SARFAESI Act, 2002 as illegal. Arbitrary, contrary to the mandate contained in SBI OTS-2020 and contrary to spirit and intent of the Order in W P No 5366/2021 dated 15/06/2021 passed by this Hon'ble Court and consequentially to direct the respondents 1 to 3 to extend the benefit of the SBI OTS Scheme-2020 to the CC Account No. 62105928836 of the petitioners in the interest of justice and to pass **…"**

2. Heard learned counsel for the petitioner and the learned counsel for the respondents.

3. Sri M. Sudhir Kumar, learned counsel for the petitioners submit that the petitioners are entitled for grant of One Time Settlement (OTS) scheme; that though respondent bank has no discretion to reject the OTS application of the petitioners, has rejected the same. The scheme is non-discretionary one and once the petitioners fulfill the conditions, the bank has no other go except to extend the benefit of OTS scheme. He also submitted that on earlier

two occasions, when the respondent bank rejected the OTS applications of the petitioners, this Court has set aside the same and asked the bank to reconsider the same. Inspite of the same, the respondent bank has once again rejected the same without proper consideration. He further submitted that when the petitioners made an application within time on 21.10.2021 and 31.10.2020 and the S.A. No.81 of 2021 filed by the petitioners was allowed, the petitioners are entitled for the benefits under the OTS scheme since the petitioners does not fall outside the scheme. The respondent bank has erroneously dismissed the application.

4. Learned counsel for the petitioners submits that as per the directions in SA No.81 of 2021, the petitioners had to pay 25% of the outstanding amount. Since the sale of property by the respondent bank also comes under the purview of Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SERFAESI Act'), the respondent bank has to consider the OTS application of the petitioners.

5. On the other hand, Sri N. Meher Prasad, learned standing counsel for the respondent Bank submitted that the account of the petitioners was declared as NPA on 03.07.2017 and notice under Section 8 (6) of the SERFAESI Act was issued on 27.12.2017 and the auction notice was issued on 08.02.2019 and auction was conducted on 12.03.2019. The highest bidder quoted Rs.9.33 crores against the

outstanding loan amount of Rs.13.5 crores. He further submitted that the bank has to verify the eligible account holders for grant of OTS, identify and recommend for grant of OTS benefits and in the present case, the petitioners account was not indentified by the bank for grant of OTS benefits and the petitioners on their own filed the application and have quoted only Rs.5.00 crores as against the outstanding amount of Rs.13.5 crores. It is further submitted that grant of OTS scheme is not for paying the outstanding amounts by third parties and it is only for revival of sick units, and in this case, it is stated in the affidavit that the third party has issued the cheque for clearance of the amount. He further submitted that the petitioners have an alternative remedy to challenge the sale notice.

6. In this case, it is to be seen that there is no dispute that the petitioners have to pay the outstanding amount of Rs.13.5 crores to the respondent bank and the petitioners have offered only Rs.5.00 crores under OTS scheme. The learned counsel for the petitioners is not in a position to state the correct amount, he only says that the petitioners would pay as per the Scheme. On earlier two occasions, when the petitioners approached this Court, the rejection order was set aside. It is also not disputed that the petitioners' account was declared as NPA and on 03.07.2017 notices were issued on 11.10.2017 and auction was conducted on 12.03.2019. There is no dispute that the auction purchaser has offered Rs.9.33 crores.

7. The above facts disclose that the petitioners have approached this Court only to drag on the proceedings by filing one writ petition after the other. This is the third writ petition and the petitioners have not come forward by offering a reasonable amount towards payment of OTS amount. In view of the same, this Court is not inclined to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India in favour of persons like the petitioners. As rightly contended by the learned Standing Counsel for the respondent bank, the petitioners have an alternative remedy to challenge the sale notice and they can avail the same.

8. In view of the above, we are not inclined to entertain this writ petition and accordingly, the same is dismissed. No order as to costs. Miscellaneous applications, if any pending, shall stand dismissed.

A. RAJASHEKER REDDY, J

Dr. SHAMEEM AKTHER, J

July 12, 2021
KTL