

**THE HONOURABLE SRI JUSTICE UJJAL BHUYAN**  
**AND**  
**THE HONOURABLE MRS JUSTICE SUREPALLI NANDA**  
**WRIT PETITION No.15951 of 2022**

**ORDER:** *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Ms. Kalyani, learned counsel representing Mr. Amancharla V.Gopala Rao, learned counsel for the petitioner and Mr. Ambadipudi Sathyanarayana, learned counsel for respondent No.1-City Union Bank Limited. Also heard Mr. B.Mukherjee, learned counsel representing Mr. N.Rajeshwar Rao, learned Assistant Solicitor General of India for respondent No.3.

2. Petitioner is aggrieved by tender cum auction sale notice dated 20.01.2022 issued by the 1<sup>st</sup> respondent whereby the schedule property is sought to be auction sold on 30.03.2022. It is stated that petitioner is the guarantor for the loan availed of by the 2<sup>nd</sup> respondent from the 1<sup>st</sup> respondent. For default in repayment by the 2<sup>nd</sup> respondent, 1<sup>st</sup> respondent initiated proceedings under the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly referred to hereinafter as the 'SARFAESI Act'). Consequently impugned tender cum auction sale notice came to be issued.

3. From a perusal of the impugned notice, it is seen that outstanding dues of the 2<sup>nd</sup> respondent has been quantified by the 1<sup>st</sup> respondent at Rs.2,66,94,112.00 as on 12.01.2022.

4. Learned counsel for the petitioner submits that aggrieved by the steps taken by the 1<sup>st</sup> respondent under the SARFAESI Act, petitioner has filed securitisation application under Section 17 thereof before the Debts Recovery Tribunal-II at Hyderabad (Tribunal) which has been numbered as S.A(I.R).No.352 of 2022. Petitioner has also filed an interlocutory application for stay being I.A(I.R).No.231 of 2022.

5. With the grievance that there is no presiding officer in the Tribunal rendering the same non-functional, present writ petition has been filed.

6. After hearing learned counsel for the parties and on due consideration, we are of the view that since petitioner has already availed his statutory remedy under Section 17 of the SARFAESI Act, he should pursue the said remedy for redressal of his grievance. Further, if the petitioner deposits 15% of the outstanding dues as mentioned above within a period of 30 days from today, 1<sup>st</sup> respondent shall not finalise the auction sale scheduled on 30.03.2022 which in any event would be subject to outcome of S.A(I.R).No.352 of 2022. However, if there is any default on the part of the petitioner in making the payment as above, it would be open to the 1<sup>st</sup> respondent to take necessary steps for realisation of dues in accordance with law.

7. This disposes of the Writ Petition. However, there shall be no order as to costs.

8. As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

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**UJJAL BHUYAN, J**

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**SUREPALLI NANDA, J**

Date: 29.03.2022  
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