

**HON'BLE SRI JUSTICE P.NAVEEN RAO
AND
HON'BLE SRI JUSTICE J.SREENIVAS RAO**

WRIT PETITION Nos.19835 AND 21041 OF 2020

Date:20.09.2022

W.P.No.19835 of 2020:

Between:

M/s Sri Laxmi Agro Tech, Rep by its., Managing Partner,
Mr G Shiva Prasad, S/o G Pandurangaiah, Aged 40 years,
R/o. H No 1-4-168 40 row houses. New town Rajendra Nagar.
Mahabubnagar.

.....Petitioner

And

Union Bank of India, Rep by its., Authorized Officer,
Erstwhile Andhra Bank Mahabubnagar Branch,
PB. No. 8 Police HQ, Mahabubnagar.

.....Respondents

The Court made the following:

**HON'BLE SRI JUSTICE P.NAVEEN RAO
AND**

HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION Nos.19835 AND 21041 OF 2020

COMMON ORDER: *(Per Hon'ble Sri Justice P.Naveen Rao)*

Heard learned counsel for petitioner Ms.P.Hamsa Durga representing learned counsel Sri D. Raghavulu, and learned counsel Sri Sethu Madhav Rao representing learned counsel Smt.Dyumani.

2. As the borrower defaulted in the repayment of loan amount and the loan account having become non-performing asset, the respondent – Bank initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI ACT, 2002'). On 19.09.2020 the respondent – Bank issued e-auction sale notice proposing to conduct e-auction on 15.10.2020. As per the notice, the e-auction was conducted on 15.10.2020. Challenging the said e-auction sale notice dated 19.09.2020 W.P.No.19835 of 2020 is filed by the borrower of the respondent – Bank. Petitioner further prayed to consider the OTS proposal dated 06.10.2020 in terms of the OTS Scheme vide circular No.2218-2020 dated 29.09.2020. No interim order was granted in this writ petition.

3. W.P.No.21041 of 2020 is also filed by the very same petitioner who is petitioner in W.P.No.19835 of 2020. In this writ petition petitioner is praying to set aside the notice of Advocate Commissioner dated 17.10.2020 pursuant to the orders passed in C.R.L.M.P.No.52 of 2018 to take physical possession of the secured asset, by declaring the proceedings of the respondent – Bank in respect of property mentioned in the prayer as null and void, illegal and arbitrary. In other words, petitioner is aggrieved by the respondent – Bank taking recourse to Section 14 of the SARFAESI Act, 2002.

4. It is noticed that the very same petitioner filed W.P.No.18798 of 2022 along with others praying to direct the respondent – Bank to cancel the e-auction conducted on 15.10.2020 in favor of the 2nd respondent and to hand over the physical possession of the property in issue. Petitioners seek a comprehensive relief covering the reliefs prayed in W.P.No.19835 of 2020 and W.P.No.21041 of 2020. W.P.No.18798 of 2022 came up for consideration before the division Bench of this Court on 21.04.2022. The division Bench noticed that O.A.No.358 of 2019 was filed before the Debts Recovery Tribunal – I, Hyderabad (for short ‘the Tribunal’) for recovery of sum of

Rs.8,99,59,311.44/-. On 21.10.2019, the respondents therein were set *ex-parte* and the said O.A., was disposed of. Based on the orders passed on 21.10.2019 a recovery certificate was issued and recovery proceedings commenced. The respondent – Bank has also invoked provisions under the SARFAESI ACT, 2002, as a consequence of which, sale notice was issued to hold auction on 15.10.2020 and accordingly, auction was conducted. The sale was confirmed in favor of the successful bidder. Taking note of these facts, this Court dismissed the writ petition.

5. As noticed from the prayer sought in W.P.No.19835 of 2020, W.P.No. 18798 of 2022 is consequent to the e-auction sale notice issued 19.09.2020 which is subject matter of these writ petitions. Petitioners having already filed one writ petition, could not have filed another writ petition on the same issue even though by a clever drafting, the prayer sought was framed in a different manner but the issue is same. Further, on going through the averments in affidavit filed in support of W.P.No.21045 of 2020 and W.P.No.18798 of 2022 it is also noticed that there is no mention made in the averments on filing of W.P.No.19835 of 2020 and W.P.No.21041 of 2020 respectively.

6. This clearly amounts to suppression of material facts, non-disclosure of relevant information and misleading this Court by instituting successive writ petitions on the very same issue. Accordingly, these writ petitions are dismissed with costs of Rs.5000/- to be paid to the Telangana State Legal Services Authority.

Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

J.SREENIVAS RAO,J

Date: 20.09.2022
PT

THE HON'BLE SRI JUSTICE P.NAVEEN RAO
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION Nos.19835 AND 21041 OF 2020

Date:20.09.2022

PT