

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

(Special Original Jurisdiction)

**MONDAY, THE TWENTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE P NAVEEN RAO
AND
THE HONOURABLE SRI JUSTICE NAGESH BHEEMAPAKA**

WRIT PETITION NO: 7533 OF 2023

Between

Sri. V. Ravi Kumar, S/o. Anantha Krishna, aged about 48 years, R/o. Flat No. 601, 601A, Pavani Estates, Hyderabad.

...PETITIONER

AND

Union Bank of India, 3rd Floor, Andhra Bank Building, Sultan Bazaar, Koti, Hyderabad- 500095.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, direction or order(s) more particularly in the nature of Writ of Mandamus. 1) Setting aside the Sale Notice dated 24/02/2023, and the proceedings conducted in the e-auction held on 14/03/2023, and all further proceedings pursuant to the said Notice and the E-auction. 2) Direct the Respondent not to conduct any further proceedings with respect to the Scheduled Property under SARFAESI Act, till the final disposal of SA No. 58 of 2023 pending before the Honourable DRT.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents not to take any further action under SARFAESI Act, with respect to the Schedule Property.

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent not to confirm the sale, issue Sale Certificate or registration of the same, pursuant to the proceedings conducted in the e-auction held on 14/03/2023 with respect to the Schedule Property.

**Counsel for the Petitioner : SRI. S. RAVI SENIOR COUNSEL REP
R.S. ASSOCIATES**

Counsel for the Respondents: Ms V. DYUMANI

The Court made the following: ORDER

**HONOURABLE SRI JUSTICE P.NAVEEN RAO
&
HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

WRIT PETITION NO.7533 OF 2023

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

Petitioner is the guarantor. Aggrieved by various measures initiated by the respondent-Bank under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'Act, 2002'), petitioner filed S.A.No.58 of 2023 before the Debts Recovery Tribunal-I, Hyderabad, praying to set aside the e-auction sale notice dated 05.12.2022 and e-auction sale notice dated 04.02.2023 proposing to conduct auction on 23.02.2023; set aside the Advocate-Commissioner notice dated 04.02.2023 pursuant to the warrant in Crl.M.P.No.86 of 2023 on the file of Hon'ble Chief Metropolitan Magistrate, Nampally at Hyderabad; set aside any other/all further proceedings under the Act, 2002 against the application schedule property.

2. Petitioner filed I.A.No.303 of 2023 in A.S.No.58 of 2023 praying to grant stay of all further proceedings including taking physical possession of the schedule property pursuant to the auction sale notice dated 05.12.2022, fixing the date of auction on 23.02.2023.

3. On consideration of the rival submissions, Debts Recovery Tribunal-I passed orders on 17.02.2023 granting conditional stay of confirmation of sale subject to petitioner depositing ₹ 2.00 crores in two instalments; first instalment of ₹ 1.00 crore should be deposited by 10.03.2023 and balance ₹ 1.00 crore has to be deposited within three weeks thereafter to the credit of the loan account with the respondent-Bank.

4. While so, the respondent-bank issued e-auction sale notice dated 24.02.2023 proposing to conduct auction on 14.03.2023. They are concerned with the property no.4 in the list of properties proposed for auction on 14.03.2023. Having come to know that auction was conducted on 14.03.2023 selling the property no.4, this writ petition is filed.

5. We have heard the learned senior counsel Sri S.Ravi for the petitioner and the learned standing counsel Ms. V.Dyumani for the respondent-Bank.

6. According to the learned senior counsel, the subsequent e-auction notice dated 24.02.2023 and conducting of auction on 14.03.2023 is *ex facie* illegal in the teeth of the interim order passed by the Debts Recovery Tribunal on 17.02.2023.

7. During the subsistence of the said interim order, the respondent-Bank could not have conducted further auction without leave of the Tribunal. He would submit that as per the directions of the Debts Recovery Tribunal, the amount was deposited on 10.03.2023, it was realized and credited to the account by 14.03.2023.

8. Learned standing counsel trying to justify the action of the respondent-Bank in conduction auction on 14.03.2023 on the ground that interim order passed by the Tribunal was confined to the proposed e-auction on 23.02.2023 in pursuant to the sale notice dated 05.12.2022. Whereas on the said date, auction could not be conducted and, therefore, fresh auction notice was issued and fresh auction notice is valid since the earlier e-auction procedure was not successful. This is an independent cause of action and, therefore, the order passed by the Debts Recovery Tribunal does not come in the way of respondent-Bank in proceeding to conduct auction. Learned standing counsel sought to contend that as directed by the Tribunal, the amount has to be deposited on or before 10.03.2023, whereas two cheques were presented on 10.03.2023 after closure of Bank hours and the amount was realized on 14.03.2023 and, therefore, it would amount to violation of the directions of the Court and, therefore, there was no embargo on respondent-Bank in conducting auction and confirming the sale as the order passed by

the Tribunal was conditional and the amount was not paid on or before 10.03.2023.

9. We do not appreciate the said stand of the respondent-Bank. As noticed above, the comprehensive relief was sought before the Debts Recovery Tribunal in S.A.No.58 of 2023. The petitioner not only challenged the e-auction notice dated 05.12.2022, sale notice dated 04.02.2023, but also challenged taking physical possession of the properties, and notice issued by the Advocate-Commissioner and all further proceedings that would be initiated by the respondent-Bank. Having considered the respective submissions, the Debts Recovery Tribunal passed interlocutory order staying further proceedings except conducting of auction subject to petitioner depositing the amount as directed by the Tribunal. As directed by the Tribunal, ₹ 1.00 crore was deposited on 10.03.2023 and the amount was already realized by the Bank and when S.A., is pending and interlocutory order is subsisting, respondent-Bank could not have gone for conducting fresh auction. We do not appreciate the manner in which the proceedings are undertaken by the respondent-Bank. However, we are informed that petitioner has already filed application seeking amendment of the prayer in S.A., and therefore this issue is now under consideration by the Debts Recovery Tribunal. Therefore, we restrain from expressing our opinion and leave it to the Debts Recovery Tribunal to consider the issue after affording opportunity to

both parties. However, we cannot permit the respondent-Bank to confirm the sale at this stage.

10. Writ Petition is disposed of, granting liberty to the petitioner to pursue the pending S.A.No.58 of 2023. However, till further orders are passed by the Debts Recovery Tribunal, on due consideration of the application that may be filed by the petitioner or in S.A., as the case may be, the respondent-Bank shall not confirm the sale in favour of the auction purchaser in the auction conducted on 14.03.2023 pursuant to the auction notice dated 24.02.2023 concerning the property no.4, which is part and parcel of building bearing no.1-118/33 on plot no.33, comprising Rohini Layout, admeasuring 311 square yards in T.S.No.64 part, in Sy.No.64, situated at Madhapur village, Serilingampalli Mandal, Ranga Reddy District. It is also made clear that we have not expressed any opinion on the conditional order passed by the Debts Recovery Tribunal. Pending miscellaneous applications, if any, shall stand closed.

**SD/- A.V.S.S. PRASAD
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Union Bank of India, 3rd Floor, Andhra Bank Building, Sultan Bazaar, Koti, Hyderabad- 500095.
2. One CC to SRI. R.S. ASSOCIATES, Advocate. [OPUC]
3. One CC to Ms. V. DYUMANI, Advocate. [OPUC]
4. Two CD Copies

SB



HIGH COURT

DATED:20/03/2023

ORDER

WP.No.7533 of 2023



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

⑥ VW
27/3/23