

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND**

THE HON'BLE MRS JUSTICE ANIS

-
WRIT PETITION No.41216 OF 2014

ORDER:- (per Hon'ble Sri Justice K.C.Bhanu)

This writ petition is filed seeking to issue a Writ of Mandamus declaring the action of respondent No.4 – the Debts Recovery Tribunal, Visakhapatnam in not passing any orders on the stay petition – I.A.No.864 of 2014 in S.A.No.306 of 2014 as illegal and arbitrary, and consequently, to stay the sale of the property pursuant to the notification, dated 24.11.2014, published in New Indian Express.

2. Petitioner availed credit facilities from the respondent Bank in the year 2009 and created mortgage of the properties towards security. It paid some instalments and later, committed default in repayment of the entire loan amount. The loan was declared as Non-performing Asset. Initially, a notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act") was issued by the respondent Bank on 01.07.2014 and thereafter, a notice of sale of the secured property was issued on 01.10.2014. Petitioner made a representation on 12.11.2014 stating that it is ready to pay the entire amount by 31.01.2015 and requested time. Respondent No.2 addressed a letter, dated 15.11.2014, stating that all the properties would be handed over to the petitioner only after clearing all the dues in all the accounts and bringing all the accounts in order. While so, a notification was published in the New Indian Express, Vijayawada on 24.11.2014 stating that the mortgaged property of the petitioner firm and the property belonging to the individual partners would be brought to sale on 31.12.2014. In the said notification, it is mentioned that the amount due as on 30.06.2014 is Rs.19,26,48,803/- instead of Rs.17,73,91,649/-. So, the petitioner filed Securitization Application

No.306 of 2014 along with I.A.No.864 of 2014 for stay of all further proceedings. Respondent No.4, without passing any orders on that application, posted the matter to 03.02.2015. Hence, the petitioner filed the present writ petition.

3. Learned counsel for the petitioner stated that the petitioner is ready to pay the entire amount due to the respondent Bank if a reasonable time is granted to it and hence, he prays to interdict the E-auction notice.

4. On the other hand, learned Standing Counsel appearing for the respondent Bank opposed the same and prays to dismiss the writ petition.

5. The respondent Bank is interested only to recover the entire amount due. As the petitioner came forward to discharge the entire outstanding amount to the bank, reasonable time can be granted to enable the petitioner to pay the entire amount due to the Bank. Therefore, we direct the petitioner to pay the entire outstanding loan amount to the Bank within a period of six (6) weeks from the date of receipt of a copy of this order. However, the E-auction can go on, but sale shall not be confirmed. If the petitioner fails to fulfil the above condition within the stipulated time, the sale shall be confirmed and the sale certificate shall be issued to the highest bidder/auction purchaser. Registry is directed not to entertain any application seeking "Extension of Time" or "For being mentioned" in this regard.

6. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 31.12.2014
AMD



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DATE: 31.12.2014

AMD