

HON'BLE SRI JUSTICE UJJAL BHUYAN

and

HON'BLE MRS. JUSTICE S.NANDA

W.P.No.23884 of 2022

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

Heard Mr. Banoth Kiran Teja, learned counsel for the petitioner.

2. Challenge made in this writ petition is to the possession notice dated 13.05.2022, issued by the respondent under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act').

3. The challenge has been made on the ground that against the notice issued under Section 13(2) of the SARFAESI Act, petitioner had submitted objection. However, without considering the objection, respondent issued the impugned notice.

4. It is also contended that petitioner had earlier approached this Court by filing W.P.No.21697 of 2022, when the demand notice was issued. The said writ petition was disposed of *vide* order dated 27.04.2022, directing the respondent to consider the objection of the petitioner.

5. The present writ petition was moved before the vacation court. By order dated 26.05.2022, this Court had issued notice and stayed all further proceedings pursuant to the possession notice till 20.06.2022.

6. From a perusal of the possession notice dated 13.05.2022, and related documents, it is seen that outstanding dues of the petitioner has been quantified by the respondent at Rs.3,03,79,392.93 as on 01.03.2022 plus interest, expenses and costs.

7. After hearing learned counsel for the petitioner and on due consideration, we are of the view that petitioner has got adequate and efficacious alternative remedy under Section 17

of the SARFAESI Act against the steps taken by the secured creditor under Section 13 of the SARFAESI Act.

8. That being the position, we grant liberty to the petitioner to file securitisation application under Section 17 of the SARFAESI Act before the jurisdictional Debts Recovery Tribunal within a period of thirty days from today.

9. Additionally, if the petitioner deposits 15% of the outstanding dues as mentioned above, within the aforesaid period of thirty days, respondent shall not proceed further pursuant to the possession notice dated 13.05.2022, which, in any event, would be subject to such securitisation application that may be filed by the petitioner.

10. However, we make it clear that if there is any default on the part of the petitioner either in filing the securitisation application or in making the payment as above, it would be open to the respondent to proceed in accordance with law for realisation of the outstanding dues.

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11. This disposes of the Writ Petition. No costs.

Related interlocutory applications, pending if any, also stand disposed of.

UJJAL BHUYAN, J

S.NANDA, J

Date: 21-06-2022
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