

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU
&
THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA

Writ Petition No.18321 of 2023

ORDER: *(per Sri Justice D.V.S.S.Somayajulu)*

Heard learned counsel for the petitioner and learned counsel for the respondent-Bank.

2. Dispute arises out of an order passed in AOR.No.2 of 2022 in R.P.No.11 of 2016 in O.A.No.21 of 2014 by Debt Recovery Tribunal, Visakhapatnam. The order passed by the learned Recovery Officer in R.P.No.11 of 2016 was set aside and a direction was given to the learned Recovery Officer to hear the both the parties afresh as per the provisions of law guidelines given by the Hon'ble Supreme Court and dispose of I.A.No.49 of 2022 and 54 of 2022. Both these applications are claim applications which are pending. The order was passed on 28.06.2023. The period fixed for disposal of the matter will expire on 28.07.2023. In the meanwhile the impugned notices have been issued on 10.07.2023 fixing the date of auction as 26.07.2023. This is questioned and a stay is sought. Despite the two week gap between the date of notice and date of the

scheduled auction, the petitioner did not approach the Recovery Officer. In the last minute, a writ is filed stating that there is violation of the order of the Debts Recovery Tribunal, Visakhapatnam. No explanation is forthcoming why after the notice dated 10.07.2023 was received he has not made any attempt to inform either the Bank or the Recovery Officer that the respondent-Bank is conducting the auction. At the very last minute, the writ petition is filed and interim order is sought.

3. Learned counsel for the respondent also points out that in the claim petition an application was filed on 18.07.2023 itself requesting the Recovery Officer to grant stay of the very same notices which are now impugned in the present writ petition.

4. Learned counsel for the petitioner submits that they are withdrawing this application or that they have already withdrawn the application filed before the Recovery Officer. He is not very clear on this.

5. A perusal of the writ affidavit dated 20.07.2023 does not make any reference to this Interlocutory Application which was filed before the Recovery Officer. By suppressing

this fact, the present writ is filed. This is a factor against the writ petition.

6. Time and again the Hon'ble Supreme Court of India has held that parties who are aggrieved by the action either of the Bank or by the DRT have approach the appropriate forum or appellate forum. A Writ Petition is not a proper remedy.

7. Considering the above, this Court is of the opinion that both on facts and law, the petitioner is not entitled for any relief.

8. Therefore, writ petition is dismissed at a stage of admission. There shall be no order as to costs.

As a sequel, Miscellaneous Applications, if any, pending shall also stand dismissed.

JUSTICE D.V.S.S.SOMAYAJULU

JUSTICE DUPPALA VENKATA RAMANA

Date: 25.07.2023.
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