

IN THE DEBTS RECOVERY TRIBUNAL – 1 AT HYDERABAD

DATED THIS THE 19TH DAY OF SEPTEMBER, 2024

PRESENT: SRI GUMMADI GOPICHAND, PRESIDING OFFICER

SA.No.218/2023

Sri Dyavanapally Srinivas,
S/o VenkataNarasaiah,
Aged 55 years, Occ:business,
R/o H.No.1-64/1/2, Bejjanki,
Siddipet District-505528.

... Applicant

Versus

UnionBank of India,
Rep. by its Authorized Officer
Bejjanki Branch, Bejjanki village,
Bejjanki Mandal, Siddipet District

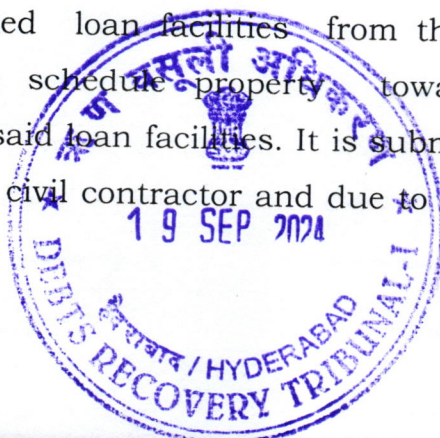
... Respondent Bank

Counsel for the Applicant
Respondent Bank

: Sri D.Raghavulu
: Exparte

ORDER

1. The Applicant filed the present Securitisation Application u/s.17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002) challenging the e Auction Sale Notice dt.19.05.2023 issued by the Respondent Bank fixing the date of auction on 27.06.2023 in respect of the schedule property and to set aside the same as illegal and void.
2. The averments made in the application, in brief, are that, the Applicant availed loan facilities from the Respondent Bank and mortgaged the schedule property towards the security of the repayment of said loan facilities. It is submitted that the Applicant is a Government civil contractor and due to non-sanctioning of bills by

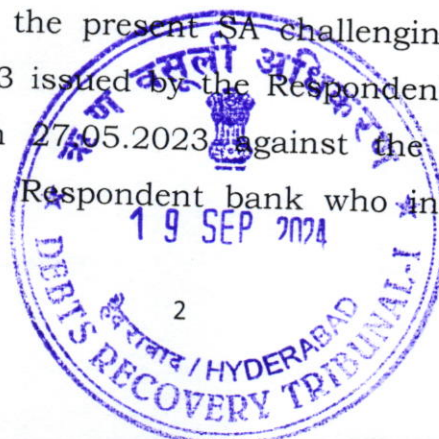


the Government, the Applicant could not pay some instalments. All of a sudden, the Applicant was shocked to see that the Respondent Bank was trying to sell the schedule property by issuing Sale Notice dt.19.05.2023 even after receiving substantial amounts. The Respondent Bank failed to serve demand notice and possession notice on the Applicant. The Bank failed to follow Rule 8(1)&(2) of Security Interest (Enforcement) Rules, 2002 in taking possession of the schedule property. Further, the E Auction Sale Notice dt.19.05.2023 was not served on the Applicant and the same notice was neither published in two leading newspapers nor affixed on the schedule property. The bank failed to follow Rule 8(5)(6)(7)& (91) of Security Interest (Enforcement) Rules, 2002. Hence the SA.

3. The Respondent Bank in spite of service of notice, called absent and there was no representation even after giving several opportunities and hence the Respondent Bank was set exparte.
4. Heard Ld. Counsel for the Applicant.
5. Now the points that arise for consideration is
 - i) *Whether the Applicant has established any valid grounds for challenging the Auction Sale Notice dt.19.05.2023 fixing the date of auction on 27.06.2023 in respect of the schedule property?*
 - ii) *To what relief?*

Point No.(i)

6. The Applicant filed the present SA challenging the e Auction Sale Notice dt.19.05.2023 issued by the Respondent Bank by fixing the date of auction on 27.05.2023 against the application schedule property. But, the Respondent bank who invoked the SARFAESI



proceedings against the schedule property, failed to justify their action by filing Reply and produce necessary material documents to prove that the Bank has strictly followed the provisions of SARFAESI Act and Rules framed thereunder while issuing the Sale Notice dt.19.05.2023 against the secured asset. The Bank has not evinced any interest in contesting the matter even after giving several opportunities and failed to file their Reply and material documents to disprove the allegations of the Applicant. In the absence of any material evidence to show that the Respondent Bank has duly complied with the mandated provisions of SARFAESI Act and Rules, 2002 while proceeding against the secured asset for sale of the schedule property, I hold that the Applicant has made a case for quashing the measures initiated by the Respondent Bank against the SA schedule property under the provisions of the SARFAESI Act and Rules thereunder and as such, the SA is liable to be allowed.

Point No.(ii):-

7. In the result, SA 218/2023 is allowed.
8. Accordingly, the impugned e Auction Sale Notice dt.19.05.2023 issued by the Respondent Bank against the schedule property is hereby quashed. However, the Respondent Bank is at liberty to proceed afresh against the SA schedule property to recover their dues by duly following the provisions of SARFAESI Act, 2002 and Rules thereunder.
9. The Interlocutory Applications, pending if any, shall stand disposed of. No order as to costs.
10. Communicate a copy of this order to the parties concerned.

(Dictated to the Private Secretary, transcribed by her, corrected, signed and pronounced by me in the open court on this the 12th day of September, 2024).



TRUE COPY
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 Asst. Registrar
 DRT-I, HYDERABAD.

Sd/-
(G. GOPICHAND)
PRESIDING OFFICER