IN THE DEBTS RECOVERY TRIBUNAL
VISAKHAPATNAM
Present :- SHRI KRISHNA GOPAL DWIVEDI,
PRESIDING OFFICER
Dated 16th May, 2026

S.A. No. 108 of 2010

Between
M/s. Coastal Andhra Agri Feed Technologies, rep. by its Proprietor Sri K.V. Ramanaiah Naidu, S/o. Veera Raghavaiah Naidu, R/o. Plot No 75, IDA (Phase-II), Ramanayya peta, Kakinada, East Godavari District

.....Applicant

And:
1. The Authorized Officer, Canara Bank (Formerly Syndicate Bank), Regional Office, Vijayawada, Krishna District

2. The Senior Branch Manager, Canara Bank, (Formerly Syndicate Bank), Vakalpudi Branch, Kakinada, East Godavari District

3. Chundru Veera Venkata Satyanarayana, S/o. Venkataramana, D.No. 23-128/6, partner of M/s. Rishik Agro Feed Industry, Vigneswara Nagar, Ramanayyapeta, Kakinada (Auction Purchaser)

..... Respondents

Ld Counsel for Applicant - Shri M.S.N Sharma
Ld Counsel for Respondents 1&2 - Shri K.S. Shankar
Ld Counsel for Respondent No.3 - Shri S. Arundev

ORDER

1. The applicant has filed the present appeal under Section 17(1) SARFAESI Act 2002 on 14.05.2010.

2. As per neat copy of SA dt. 01.05.2023. The applicant is an aggrieved person by the measures initiated by the Respondents under the SARFAESI Act. As per SA the applicant made several attempts to settle the matter under OTS but the Respondent bank did not give any attention on the proposal of the applicant. The applicant has suffered adversely due to the external market forces. As per SA the applicant firm is a proprietary concern established in the year 1999 indulged in manufacturing all types of animal feed in Pallet and Mash form and they approached the respondent bank for term loan as well as Cash Credit facility. Accordingly sanctioned a loan of Rs. 15,00,000/- towards term loan for establishment of building and erecting of

Machinery, and an amount of Rs. 40,00,000/- towards cash facility i.e running capital but it was released. After issuance of demand notice the applicant account was rescheduled on 14.12.2005 and applicant paid Rs. 60,000/- after demand notice dt. 05.12.2010. The applicant is not a willful defaulter and applicant account is not NPA as per rule. The Respondent bank has not given date of NPA. The applicant has paid Rs. 14,29,602/- after issuance of notice under Sec. 13(2) SARFAESI Act dt. 05.12.2006. Except the any other notice in persona to the applicant. The Bank authorities have not valued the property through proper valuer in case of valuation of Plant and Machinery so also structures thereon through luminary in mechanical filed and the land value also manipulated to be at the lowest as the 1st Respondent bank authority intended to show benefit to its near and dear. The Respondent Bank authorities were not sure about the issuance of notice under Sec. 13(2) of SARFAESI Act through the demand notice dt. 05.12.2006 it was mentioned as 11.08.2009 in the sale deed executed by the 1st respondent Bank authority in favour of 3rd Respondent. The 1st Respondent bank authority has never issued the notice under Sec. 13(4) of SARFAESI Act. The 1st Respondent bank has also not followed the provision of Rule 8(2) of Security Interest (Enforcement) Rules 2002. The 1st Respondent has not fixed the Reserve price as per the prevailing market value by obtaining proper valuation certificates from the concerned persons. The 1st Respondent has reduced the Reserve price fixed earlier. The 1st Respondent Bank failed to give wide publication of the auction notice. The 1st Respondent Bank authority has published sale on 20.03.2010 and had completed the sale auction on 30.03.2010 which is glaring irregularity and violation of rules 8 (6) and 9(1) of SI Rule 2002. The 1st Respondent bank authority has not followed the stipulated rules in delivering the schedule property to the 3rd Respondent auction purchaser without exhausting the 30 day of redemption period thereby the applicant borrower has been deprived of opportunity to redeem his property by repaying the debt.

3. The applicant has prayed for the following relief in the SA:-

(a) To set aside sale on dt. 30.03.2010 declaring it as void, illegal and arbitrary

(b) To declare the 13(2) notice and 13(4) notice are null and void since there is no service of the said notices with costs.

4. The applicant has filed the following document with SA:-

(a) Sale by inviting tenders notice dt. 20.03.2010
(b) Sale by inviting tenders notice dt. 01.02.2010
© Sale by inviting tenders notice dt. 12.12.2009
(d) Sale by inviting tenders notice dt. 24.08.2009
(e) Demand Notice, dt. 05.11.2006
(f) Sale deed executed by respondents dt. 04.05.2010
(g) Valuation Report

5. The applicant has also filed the following documents with additional grounds of appeal dt. 17.05.2018.

(a) Sanction Advice Syndicate Bank, Vakalapudi Branch, Vide Ref. No. ROV/3348/SSI/140/99/A/147/F.SSI00020 dt. 04.05.1999
(b) Rehabilitation Package vide letter Ref: 3258/ADV dt. 03.11.2004
(c) Circular No. 213-2009-BC-REC-09/24-09-2009 dt. 24.09.2009
(d) The Letter addressed by M/s. Nutrikraft India Pvt Ltd dt. 05.09.2008
(e) Agreement with SUGUNA POULTRY FARMS dt, 22.04.2009
(f) Application's letter proposing settlement in OTS DT. 29.09.2009
(g) Application's letter proposing settlement in OTS DT. 14.10.2009
(h) Reply by the Branch Manager dt. 14.10.2009
(i) Letter of the AGM of the Bank dt. 08.10.2009
(j) Applicant's letter requesting settlement in OTS dt. 30.03.2010
(k) Statement of Account of my SB Account of the Applicant in the same Branch
(l) RTI Application of the applicant dt. 24.07.2010
(m) Orders of GM/Appellant Authority RTI Act dt. 04.09.2010
(n) Orders of the Central Information Commissioner, New Delhi dt. 28.09.2011
(o) Orders in WP Writ Petition WP 28785/2011 filed by the PIO of the Bank before the High Court of Andhra Pradesh dt. 02.11.2011
(p) Reply and information given by PIO DT. 10.11.2011
(q) Fresh RTI Application for inspection of records dt. 21.12.2011
(r) Order rejecting inspection dt. 18.01.2012

6. The applicant have filed the following documents with memo dt. 24.06.2014

(a) SSI Registration Certificate
(b) Way Bill by Commercial Tax Department dt. 21.06.2001
(c) Letter addressed by the Applicant to the respondent bank regarding date of commencement of Commercial Production dt. 25.06.2001

(d) Letter addressed by the applicant to respondent bank against the Demand Notice dt. 03.01.2007
(e) Letter addressed by the applicant to Respondent bank dt. 30.01.2007
(f) Panchanama & Inventory dt. 11.12.2009
(g) Demand Notice dt. 05.12.2006
(h) Possession Notice dt. 05.06.2007 paper publication (English) The Hindu dt. 22.06.2007
(i) Auction Notice paper publication (English) D.C Dt. 22.03.2010
(j) Sale Certificate for movable property dt. 24.04.2010
(k) Sale Certificate for immovable property dt. 24.04.2010
(l) Circulation of Telugu Daily Newspapers in East Godavari District dt. 05.04.2010
(m) Sale Deed executed by Authorised Officer in favour of Auction purchaser bearing Doc.No. 1520/2010 dt 04.05.2010
(n) Rectification Deed bearing Doc. No. 4145/2012 dt. 17.10.2012
(o) Letter from Public Information Office/DGM, Syndicate Bank to Applicant enclosing copy of proceedings dt. 03.01.2006 in Ref. No. 2182/ROV/3348/SSI-20/2006 dt. 03.06.2013
(p) Letter from Asst. Commissioner of Income Tax, Office of Chief Commissioner of Income Tax, Visakhapatnam, regarding reply of information under RTI Act dt. 17.05.2013
(q) Valuation Report given by Mr. Badam Sundara Rao regarding Plant & Machinery. Dt. 29.04.2010.

7. The applicant has also filed the following documents on 10.09.2025:

(a) Copy of Sale notice dt. 24.01.2008

(b) Valuation Report of Industrial property dt. 28.05.2009

© Copy of paper publication of sale by Tenders (English Newspaper)

(d) Copy of Judgment of Hon'ble Supreme Court of India passed in Mathew Varghese Vs. M. Amritha Kumar & Ors.

8. The 2nd Respondent Bank has filed reply on 29.06.2010. The 2nd Respondent has prayed to dismiss the SA with costs. As per reply the SA is not maintainable under law. The Respondent has denied all the allegations alleged by the applicant. As per reply the applicant has suppressed several material facts. As per reply this Respondent sanctioned to the applicant both working capital loan as well as term loan of Rs. 15,00,000/- + 4,00,000/- i.e total amount of Rs. 19,00,000/- in the year 1999. Thereafter the said loan was rescheduled in the year 2004 by enhancing the working capital to Rs. 20,00,000/- and an additional term loan of Rs. 9,00,000/-. Even after the reschedule of the loan facility the applicant did not regularizes the account and

therefore the account was declared as NPA and the authorized officer initiated the proceedings under SARFAESI ACT. Thereafter a Demand Notice under Sec. 13(2) was given on 05-12-2006 to the applicant and his guarantors and when there was no response this respondents Authorized officer issued possession notice under Section 13(4) on 05-06-2007 which was published in two local papers i.e, Hindu and Eenadu and took symbolic possession of the secured asset. When the applicant did not come forward for payment the Authorized officer of this respondent had applied to Dist. Collector cum Magistrate under Sec 14 of the Act, for taking physical possession and proceedings were issued on 15-11-2007 directing Tahasildar, Kakinada (R) and Tahasildar, Amalapuram to assist the Bank for taking physical possession. The respondent bank issued Sale notice under Rule 8 (5) and 8 (6) to the applicant intimating the applicant that Authorized officer will conduct auction after 30 days. Thereafter the bank obtained the valuation from the bank panel valuer and after fixation of reserve price issued auction notice. 26-08-2009. Thereafter the appellant herein filed W.P.18834/2009 before the Hon'ble High Court of A.P. and after initial stay directed the appellant to deposit a sum of Rs.20,00,000/- within 8 weeks and disposed off the case on 06-11-2009 dismissing the Writ petition but however granted liberty to the applicant to approach the bank for OTS. The applicant submitted a letter on 14-10-2009 requesting the bank to consider OTS and agreed to pay of Rs.50,00,000/- in all as against the outstanding amount of more than 80,00,000/-. On 14-10-2009 the bank after careful examination of the letter of OTS issued a reply that they cannot accept OTS without down payment of minimum of 25% of the offer amount, out of total out standings to process the OTS which was received by the applicant. The applicant did not pay the 25% upfront amount as requested by this respondent Bank. The respondent bank after disposal of WP 18834/2009 sent a letter dt.10-11-2009 to the applicant to pay the amount or give consent for reduction of reserve price for which there was no response from the applicant. Thereafter the bank again issued auction notice on 15-12-2009 that the bank would conduct auction of the properties on 29-12-2009 with reduced reserve price of Rs.71,00,000/-. Then the present applicant filed another W.P.28395/2009 before the Hon'ble High Court of A.P. to finalize the OTS submitted by him on 14-10-2009 suppressing the earlier Writ Petition No.

18834/2009 and consequential orders thereon. The Hon'ble High Court on 31-12-2009 granted stay subject to payment of Rs.10,00,000/- within 4 weeks. The said orders were not complied by the applicant. Therefore final orders were passed on 24-02-2010 dismissing the W.P. As the applicant failed to pay the amount of Rs.10,00,000/- within 4 weeks the stay granted automatically stands vacated and therefore this respondent again issued an auction notice that they will conduct the auction on 26-02-2010. Again the High Court vide its orders dt. 25-02-2010 in W.A.No.119/2010 filed by applicant granted stay subject to payment of Rs.10,00,000/- within 3 weeks failing which the WA.M.P. 302/2010 shall stands dismissed. The said amount was not paid and therefore the stay granted in WAMP was vacated. Again the bank on 20-03-2010 got the auction notice published for conducting the auction of the secured assets on 30-03-2010. In pursuance of said auction notice the Authorized officer received several bids and also conducted inter-se bidding between the participants and finally the 3rd respondent herein by name C.H.V.V. SATYANARAYANA became the Highest bidder and offered Rs.72,50,000/- in whose favour the sale was confirmed and interim sale certificate was issued on 30-03-2010. The 3rd respondent paid the remaining amount and a Sale Certificate was issued in his favour on 24-04-2010. Thereafter the auction purchaser/3 respondent requested the Authorized officer to execute a registered Sale Deed and accordingly on 04-05-2010 a Sale Deed was executed which was registered as Document No. 1520/2010 before S.R.O., Sarpavaram, Kakinada (Rural) and the respondent Bank has delivered physical possession of the secured assets to the 3 respondent and since then he has been in possession of the same. Before execution of the Sale Deed the Bank paid the entire amount payable to APIIC on behalf of the applicant and obtained NOC from them on 23-04-2010. The physical possession of the schedule property auctioned by the Bank was delivered to the auction purchaser and he is in possession of the same. The auction purchaser in order to improve the value of building had applied to APEPDCL for service connection and the same was sanctioned suppressing the above said facts and suppressing the directions of High court in all the Writs and Writ Appeal without mentioning anything about the some in the application, the applicant filed the above application

9. The 1st Respondent bank filed adoption memo dt. 29.06.2010 adopting the reply of Respondent No.2.

10. The 3rd Respondent filed reply on 29.06.2010. The 3rd Respondent has supported the reply of 2nd respondent. This respondent has prayed to dismiss the SA with costs. As per reply the publication made Local papers that the 1st Respondent Bank will conduct auction of the immovable properties of the Unit of the applicant and as and when this respondent approached the 2nd respondent bank, the 2nd Respondent represented that auction is postponed for the administrative reasons of the 1st respondent. This respondent came to know that the applicant filed some cases at Hyderabad and obtained stay orders. One two or three occasions the sale has been postponed. The Respondent bank again on 20-03-2010 got the auction notice published for conducting the auction of the secured assets on 30-03-2010. In pursuance of said auction notice the Authorized officer received several bids including the bid of this respondent and therefore he has conducted inter-se bidding between this respondent and other participants and finally this respondent, became the Highest bidder and offered Rs. 72,50,000/- and the sale was confirmed in favour of this respondent and interim sale certificate was issued on 30-03-2010. This respondent paid the remaining amount and a Sale Certificate was issued in favour of this respondent on 24-04-2010. Thereafter this respondent requested the Authorized officer to execute a registered Sale Deed and accordingly on 04-05-2010 a Sale Deed was executed which was registered as Document No. 1520/2010 before S.R.O., Sarpavaram, Kakinada (Rural) and the 1st respondent Bank has delivered physical possession of the secured assets to this respondent and since then this respondent has been in possession of the same. Before execution of the Sale Deed the Bank paid the entire amount payable to APIIC on behalf of the applicant and obtained NOC from them on 23-04-2010. The physical possession of the schedule property auctioned by the Bank was delivered to this respondent and this respondent is in possession of the same.

11. The Respondent has also filed additional reply on 12.09.2017.

12. The Respondent Bank has filed the following documents dt. 20.04.2026:

(a) Counter of 2nd Respondent dt. 04.06.2010

(b) Order of Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad passed in WAMP No. 509 of 2010 in WA 119 of 2010

© Certificate of Sale dt. 24.04.2010 (for Movable property)

(d) Certificate of Sale dt. 24.04.2010 (For Immovable Property

(e) Counter Affidavit filed by the Respondent No. 1 to 3 before Hon'ble High Court of Judicature of Andhra Pradesh

(f) Copy of letter dt. 25.04.2010

(g) Copy of letter dt. 24.04.2010

(h) Receipt dt. 24.04.2010

(i) Copy of letter dt. 23.04.2010 issued by AP Industrial Infrastructure Corporation Limited

(j) Receipt

(k) Copy of letter dt. 13.04.2010

(l) Demand notice from Industrial Infrastructure Corporation Limited

(m) Letter dt. 01.04.2010

(n) Interim Certificate dt. 30.03.2010

(o) Letter to bank

(p) Letter from bank dt. 30.03.2010

(q) Auction Proceedings dt 30.03.2010

® Inter-Se- Bidding dt. 30.03.2010

(s) Letter from participating Bidder dt. 29.03.2010

(t) Copy of Cheque for Rs. 7,20,000/-

(u) Letter from participating bidder dt. 29.3.2010

(v) Paper publication of Sale by inviting Tenders dt. 22.03.2010 in Telugu

(w) Paper publication of Sale by inviting Tenders dt. 22.03.2010 in English

(x) Letter to bank for return of Bid application with pay order

(y) Proceedings dt. 26.02.2010

(z) Wire at party's costs

(aa) Copy of order of Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad in WP.No. 28395 of 2009 dt. 24.02.2010

(ab) Copy of paper publication of Sale by inviting Tenders in English Newspaper

(ac) Copy of paper publication of Sale by inviting Tenders in Telugu Newspaper

(ad) Wire at party's costs

(ae) Proceedings dt. 29.12.2009

(af) Letter from the participating bidder dt 23.12.2009

(ag) Letter from the participating bidder dt. 26.12.2009

(ah) Letter to Station House Officer dt. 11.12.2009

(ai) Panchanama

(aj) Inventory

(ak) Letter from bank Reg. Sale of properties under SARFAESI ACT dt. 10.11.2009

(al) Copy of order of Hon'ble High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Petition 18834 of 2009

(am) Letter from bank regarding proposal for OTS dt. 14.10.2009

(an) Letter from Andhra Agri Feed Technologies regarding proposal for clearing the total dues through OTS

(ao) Letter dt. 8.10.2009

(ap) Copy of paper publication of Sale by inviting Tenders in English Newspaper

(aq) Copy of paper publication of Sale by inviting Tenders in Newspaper

(ar) Acknowledgments

(as) Sale Notice dt. 24.01.2008

(at) Paper publication of possession notice in Telugu Newspaper

(au) Letter from Coastal Andhra Agri Feed Technologies reg. reply to demand Notice dt. 03.01.2007

(av) Acknowledgment

(aw) Section 13(2) demand notice dt. 05.12.2006

(ax) Letter to Bank reg. Rehabilitation package sanctioned to M/s. Coastal Andhra Agri Feed Technologies

(ay) Letter from bank to Coastal Andhra Agri Feed Technologies

(az) Sanction Letter dt 29.10.2004

(ba) Letter from Bank dt. 04.05.2022

13. The Respondent No.1 and 2 has filed list of events dt. 17.09.2025

(a) Demand Notice given by Respondent Bank to the applicant and others No reply/representation given by applicant dt. 05.12.2006

(b) Possession Notice given by the Respondent Bank to the applicant and others and published in Two Local News papers dt. 05.06.2007

© Orders of District Collector, Kakinada under Sec. 14 of the Act for taking physical possession

(d) Nowhere in the application there is a whisper about taking physical possession

(e) The applicant did not challenge the possession Notice nor the orders of the District Collector in the above SA

(f) In the SA at para No.X it was mentioned "the applicant submits that there is no application is pending before any Court of law"

(g) Notice under Rule 8(5) and Rule 8(6) was issued to the applicant that the Respondent will conduct the auction after 30 days

(h) Valuation was obtained from the Bank valuer and fixed the Reserve price

(i) Auction Notice was given by Respondent Bank for conducting the auction dt. 26.08.2009

(j) Order in WPNo. 18834/2009 before the Hon'ble High court of Andhra Pradesh which directed the applicant to deposit a sum of Rs. 20 Lakhs within 08 weeks dt. 06.11.2009

(k) While disposing off WP the Hon'ble High Court granted liberty the applicant to approach the Respondent bank for OTS

(l) The applicant submitted OTS letter for Rs. 50 Lakhs as against the liability of more than Rs. 80 Lakhs dt. 14.10.2009

(m) The Bank issued a Reply that they cannot accept OTS without down payment of 25% of offer amount. The applicant has not paid Upfront amount or any amount under OTS DT. 14.10.2009

(n) After disposal of WP No. 18834/2009 Respondent sent a letter to give consent for reduction of Reserve Price and there was no response dt. 10.11.2009

(o) Respondent Bank issued auction notice for conducting the auction on 29.12.2009 with reduced reserve price of Rs. 70 Lakhs dt. 15.11.2009

(p) Applicant again filed WP.No. 28395/2009 before the Hon'ble High court of AP by suppressing the earlier WP and order thereon

(q) Hon'ble High court granted stay subject to payment of Rs. 10 Lakhs within 04 weeks dt. 31.12.2009

® The orders of the Hon'ble High Court in WP No. 28395/2009 not complied and WP was dismissed dt. 24.02.2010

(r) When stay was vacated automatically on account of failure to pay Rs. 10 Lakhs auction notice was issued for conducting auction dt. 26.02.2010

(s) Applicant filed writ appeal in W.A.No. 119/2010 before the Hon'ble High Court of AP and the stay was granted to deposit of Rs. 10 Lakhs within 03 weeks in W.A. Mp No. 302/2010

(t) The amount was not deposited and stay granted was vacated

(u) Auction notice was given by the Bank and got it published for conducting the sale on 30.03.2010 dt. 20.03.2010

(v) The 3rd Respondent Ch. V.V. Satyanarayana became the successful bidder for Rs. 72.50 lakhs and the sale was confirmed dt. 30.03.2010

(w) Sale Certificate was issued in favour of auction purchaser as the auction purchaser deposited amount within the stipulated time dt. 24.04.2010

(x) The Respondent Bank executed Registered Sale Certificate in favour of auction purchaser registered as Doc. No. 1520/2010 before SRO, Sarpavaram, Kakinada dt. 04.05.2010

(y) Registered Rectification deed bearing No. 4145/2012 rectifying the correct date of demand notice dt. 17.10.2012

(z) The Respondent Bank obtained NOC from APIIC by paying the entire amount payable by the applicant for the purpose of executing sale certificate dt. 23.04.2010

(aa) Respondent No.3 Auction purchaser applied to APEPDCL for service connection and the same was sanctioned

(bb) The applicant did not challenge the Possession Notice and the orders of the District Collector

(cc) When the auction was conducted on 30.03.2010 the above SA was filed after execution of Sale Certificate and after registration in favour of auction purchaser after 45 days challenging to "set aside the sale Dt.

30.03.2010 without asking for the relief of setting aside the sale certificate". Hence SA is barred by law of limitation dt. 14.05.2010

(dd) IA no. 311/2010 was filed in the above SA No. 108/2010 seeking directions against the Respondent No.3 Auction purchaser from changing the physical features and no stay was granted.

(ee) When another Possession Notice was given for other properties applicant filed SA No. 304/2015 which is pending

(ff) The Bank filed OA No.67/2010 for recovery of balance outstanding loan amount applicant filed counter claim originally Rs. 20 Lakhs and claimed 2 more counter claim for Rs. 13 Crores and the same is pending

(gg) The applicant did not mention that there is collusion, fraud by the Bank with auction purchaser in conducting the auction.

(hh) The applicant filed IA 2074/2023 for amendment of 25 reliefs which was dismissed vide dt. 21.08.2024

(ii) The applicant filed IA No. 2075/2024 amendment petition seeking for the same reliefs and the same was dismissed. Dt. 09.09.2024

(jj) Applicant filed IA 3096/2024 for adding 21 Additional Grounds and the same was dismissed dt. 08.10.2024

(kk) Applicant filed petitions for joint trial of SA and OA and the same was also dismissed.

14. The applicant has also filed the following documents with Additional grounds of appeal dt. 17.05.2012:

(1) Sanction Advice Syndicate Bank, Vakalapudi Branch, vide Ref. No. ROV/3348/SSI/140/99/A/147/F, SS100020 dt. 04.05.1999

(2) Rehabilitation package vide letter Ref: 3258/ADV dt. 03.11.2004

(3) Circular No. 213-2009 BC-REC-09/24-19-2009

(4) The letter addressed by M/s. Nutrikraft India Pvt Ltd dt. 05.09.2008

(5) Agreement with SUGUNA POULTRY FARMS DT. 22.04.2009

(6) Applicant's letter proposing settlement in OTS dt. 29.09.2009

(7) Applicant's letter proposing settlement in OTS dt. 14.10.2009

(8) Reply by the Branch Manager dt. 14.10.2009

(9) Letter of the AGM of the bank dt. 08.10.2009

(10) Applicant's letter requesting settlement in OTS dt. 30.03.2010

(11) Statement of account of my SB Account of the Applicant in the same branch

(12) RTI Application of the applicant dt 24.07.2010

(13) Orders of GM/Appellant Authority RTI Act dt. 04.09.2010

(14) Orders of the Central Information Commissioner, New Delhi dt 28.09.2011

(15) Orders in WP Writ Petition WP No. 28785/2011 filed by the PIO of the Bank before the High Court of Andhra Pradesh dt. 02.11.2011

(16) Reply and information given by PIO dt. 10.11.2011

(17) Fresh RTI Application for inspection of records dt. 21.12.2011

(18) Order rejecting Inspection dt. 18.01.2012

15. I have heard the Ld. counsel of both the parties and perused the record. After perusal of the record I find that Hon'ble High Court of Andhra Pradesh in W.P.No. 18834/2009 had directed the applicant to deposit a sum of Rs. 20 Lakhs within 08 days vide order dt 06.11.2009 and Hon'ble High Court also granted liberty to the applicant to approach the Respondent bank for OTS. The applicant submitted OTS letter for Rs. 50 Lakhs against the liability of Rs. 80 Lakhs but the Respondent bank issued a reply that they cannot accept the OTS without outstanding payment of 25% of upfront amount. The applicant did not pay the upfront amount or any amount on OTS on 14.10.2009. After disposal of the writ petition 18834/2009 the respondent bank has send a letter to the applicant for reduction of Reserve price but the applicant did not give any response. The Respondent bank issued auction notice for conduct of auction on 20.12.2019 and reduced the Reserve price Rs. 70 Lakhs. The applicant again filed W.P.No. 28395/2009 before Hon'ble High Court of Andhra Pradesh and Hon'ble High Court granted stay subject to payment of Rs. 10 Lakhs within 04 weeks but the applicant did not comply the order of Hon'ble High Court and writ petition 28395/2009 was dismissed by Hon'ble High Court.

The respondent bank again issued notice for conduct of auction. The applicant filed writ appeal No. 119/2010 before Hon'ble High court of Andhra Pradesh and stay was granted to deposit Rs. 10 Lakhs within 03 weeks but

that amount was not deposited. After that the Respondent issued auction notice and got published for conduct of sale on 30.03.2010. The 3rd Respondent became successful bidder for Rs. 72.50 Lakhs and sale was confirmed and sale certificate was issued. The Respondent Bank executed the Registered sale certificate in favour of the Auction purchaser.

After scanning the above facts I find that the applicant has not complied the order of Hon'ble High Court. The applicant has not paid any amount as per the order of Hon'ble High Court. The applicant has also not paid upfront amount of OTS and Respondent bank had given chance for OTS to applicant. The applicant has filed the present SA on 1.05.2010. Hence on the point of possession notice dt. 05.06.2007, demand notice dt. 05.12.2006 and classification of account as NPA and order of DM, Kakinada passed under Sec. 14 of SARFAESI Act is time bared. The applicant has not filed any petition to condone the delay on the above point. Since demand notice, possession notice, classification of account as NPA and order of DM, Kakinada is time barred. Hence there is no need to discuss on the merits of the above points.

The Respondent bank has issued sale notice dt. 20.03.2010 fixing the auction on 30.03.2010. The applicant has filed the present SA on 14.05.2010. Hence the applicant has filed the present SA within 45 days from the date of auction. Hence sale proceedings is within time as per Sec. 17(1) of the SARFASEI Act. After perusal of the record I find that sale notice dt. 20.03.2010 was published on 22.03.2010 and sale was held on 30.03.2010 with a gap of nearly 08 days. In this regard I would like to refer the previous Rule 9(1) which was enforce at that time:-

> *" No sale of immovable property under these rules shall take place before the expiry of thirty days from the date on which the public notice of sale is published in newspapers as referred to in the provision to sub rule (6) or notice of sale has been served to the borrower "*

In this case the Respondent has sold the property in auction on 30.03.2010. Hence I find that the Respondent bank has not complied the provision of Rule 9(1) which was enforce in 2010. The Respondent bank has not maintained gap of 30 days from publication to sale notice and date of sale. Hence this sale is not as per provision of Rule 9(1). In the present case the

Respondent bank has tried to sell the property before this sale also but due to several reasons sale could not take place. Hence the Reserve price fixed in the above sale is just and proper and there is no any illegality in fixing the Reserve price but sale is conducted against the provision of Rule 9(1) Security Interest (Enforcement) Rules 2002 which was applicable in 2010. Hence this sale is against law.

On the basis of above discussion I set aside the sale notice dt. 20.03.2010 and cancel the sale conducted on 30.03.2010. Accordingly I allow this SA 108 of 2010 on contest with costs and also cancel the sale deed executed by the Respondent bank infavour of the Auction purchaser. I direct the Respondent bank to return the amount to the Auction purchaser with cost of Registration charges and 9% pa interest within 30 days from the date of this order.

[Dictated to the Steno, transcribed by her, corrected and pronounced by me in the open court on this 16th May, 2026]

16.05.2026

PRESIDING OFFICER
DEBTS RECOVERY TRIBUNAL
VISAKHAPATNAM