THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE MRS JUSTICE ANIS

WRIT PETITION No.41272 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 the respondent Bank in issuing possession notice, dated 26.11.2014, under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "the SARFAESI Act") by not considering the petitioner's request for payment of 1/4th of the total amount of the possession notice as illegal and arbitrary, and consequently, to set aside the said possession notice.

2. Petitioner obtained cash credit of Rs.22,00,000/- from the respondent Bank for the purpose of running the rice industry. It paid some instalments and later, committed default in repayment of the entire loan amount. The loan was declared as Non-performing Asset (N.P.A.). Initially, a notice under Section 13(2) of the SARFAESI Act was issued by the respondent Bank and later, possession notice under Section 13(4) of the SARFAESI Act was issued. Though the petitioner approached the officials of the respondent Bank and requested not to take the possession of the property and further, to receive 1/4th amount as per the possession notice and release the seized property, it is of no use and the respondent Bank highhandedly seized the petitioner rice industry on 26.11.2014.

3. Learned counsel for the petitioner stated that the petitioner is ready to pay the entire amount due to the respondent Bank if six weeks' time is granted to it.

4. On the other hand, learned Standing Counsel appearing for the respondent Bank opposed the same on the ground that earlier, the petitioner committed default in payment of the instalments 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 50% of the outstanding loan amount to the Bank within a period of six (6) weeks from today and the remaining 50% of the loan amount within a period of six (6) weeks thereafter. Till then, the proceedings under the SARFAESI Act shall be kept under abeyance. If anyone of the above conditions is not fulfilled by the petitioner, the respondent Bank is at liberty to proceed further for realisation of the amount due to the Bank in accordance with the provisions under the SARFAESI Act. On payment of the first instalment as directed above, the respondent Bank shall give the possession of the secured asset to the petitioner. If the petitioner fails to fulfil the second condition, the possession is deemed to have been taken by the respondent Bank without initiating any proceedings under the SARFAESI Act. 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

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

THE HON'BLE MRS JUSTICE ANIS

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