

HON'BLE SRI JUSTICE R. SUBHASH REDDY
And
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT PETITION No.40520 of 2015

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ORDER : (Per Justice R.Subhash Reddy)

This writ petition is filed seeking directions, directing respondent No.1 not to dispossess the petitioner from the premises bearing No. 11-2-289, till her application for impleadment and stay petition filed in Crl.M.P.No.1651 of 2015 before the Chief Metropolitan Magistrate, Hyderabad, are considered.

The 2nd respondent has mortgaged the property in question and availed loan assistance from the 1st respondent-Finance Ltd. It appears, in view of default committed by the 2nd respondent, the 1st respondent has initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Securitisation Act'). The 1st respondent has also filed Crl.M.P.No.1651 of 2015 before the Chief Metropolitan Magistrate, Hyderabad under Section 14 of the Securitisation Act and pursuant to the orders passed in the said petition, the Advocate-Commissioner has issued warrant to the 2nd respondent for taking physical possession of secured asset described in the schedule of Crl.M.P.No.1651 of 2015.

Petitioner claims that she has taken the said premises on lease from the 2nd respondent by way of unregistered lease deed, dated 21.09.2015. The petitioner has also placed reliance on the judgment of Hon'ble Supreme Court in the case of **Harshad Govardhan Sondagar v. International Assets Reconstruction**

Co. Ltd. & others^[1].

The whole claim of the petitioner is based on unregistered agreement of sale for 11 months. Even for 11 months' lease of immovable property, it is compulsorily registerable document in view of State amendment to the Registration Act. In that view of the matter, as the lease claimed by the petitioner is an unregistered one, petitioner cannot claim valid possession based on such document. In any event, as the order under Section 14 is obtained in the year 2014, the 1st respondent must have issued notice under Section 13(2) of Securitisation Act much earlier to the lease claimed by the petitioner on 21.09.2015. Even by applying the provision under Section 13(13) of the Securitisation Act, there is no valid lease in favour of petitioner so as to interdict the 1st respondent from taking possession of property. It is also brought to the notice of this Court that the 2nd respondent has already approached the Debts Recovery Tribunal questioning the possession notice. In view of the same, we do not find any merit in the writ petition so as to grant the directions as prayed for.

The writ petition is accordingly dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

14th December 2015

ajr

^[1] CrI.A.No.736 of 2014 & batch