

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Petition No.37527 of 2015

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri B.Chandrasen Reddy, learned counsel for the petitioner, Smt. V.Dyumani, learned Standing Counsel for the respondent-Banks, and Sri S.Nageswarareddy, learned counsel for the respondent-landlord and, with their consent, this writ petition is being disposed of at the stage of admission.

The proceedings under challenge in this writ petition is the order passed by the Chief Metropolitan Magistrate, Cyberabad at L.B.Nagar under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "the SARFAESI Act"), providing assistance to the respondent-Banks in taking physical possession of the subject property.

Sri B.Chandrasen Reddy, learned counsel for the petitioner, states that the petitioner was illegally dispossessed on 07.11.2015. While the petitioner herein claims to have taken the subject property on lease, no registered lease deed was executed by the landlord in their favour. By virtue of the A.P.State amendment to the Registration Act, leases for any period are required to be registered, and not merely leases entered into for a period beyond one year.

When we pointed this out Sri B.Chandrasen Reddy, learned counsel for the petitioner, and asked him how the order of the Chief Metropolitan Magistrate, passed under Section 14 of the SARFAESI Act, could be interdicted in writ proceedings, learned counsel sought time to ascertain whether the petitioner would, if reinducted, voluntarily vacate the subject premises within a specified time frame. Undertaking affidavit is now filed by the Authorised Signatory of the petitioner-company, undertaking to vacate the premises and handover possession thereof to the respondent-Banks on or before 31.03.2016.

Smt.V.Dyumani, learned Standing Counsel for the respondent-Banks, while agreeing not to dispossess the petitioner till

31.03.2016, seeks permission to proceed with the sale of the subject property. She also seeks a direction from this Court that the monthly rent, being paid by the petitioner to the respondent-landlord, be deposited to the credit of the landlord's loan account with the respondent-Banks. On the other hand Sri B.Chandrasen Reddy, learned counsel for the petitioner, would point out that the petitioner had paid substantial amounts as security advance to the landlord and, if they are not permitted to adjust the rent payable against the security advance paid by them, they would suffer irreparable loss and injury.

After deliberations for some time, both Sri B.Chandrasen Reddy, learned counsel for the petitioner, and Sri V.Dyumani, learned Standing Counsel for the respondent-Banks, have agreed that the petitioner would, on his being reinducted, voluntarily vacate the subject premises and hand over possession thereof to the respondent-Banks on or before 31.03.2016; and 50% of the gross rent shall be paid, each month to the respondent-Banks, for the period the petitioner is now permitted to retain possession of the subject property. The respondent-Banks shall re-deliver possession of the property, which was under occupation of the petitioner before 07.11.2015. It is made clear that the petitioner shall not cause hindrance to any representative of the respondent-Banks inspecting the subject premises; and in case of default, in payment of monthly rent to the respondent-Banks, or on failure of the petitioner to vacate the subject premises by 31.03.2016, it would be open to the respondent-Banks to take action pursuant to the order passed by the Chief Metropolitan Magistrate, Cyberabad under Section 14 of the SARFAESI Act. This order shall not preclude the respondent-Banks from proceeding with the sale of the subject property.

Sri S.Nageswara Reddy, learned counsel for the respondent-landlord, would submit that the respondent-Banks are now offering a One Time Settlement; and this order may disable him from seeking such benefit. Suffice it to make it clear that, it is always open to the respondent-landlord to approach the respondent-Banks and, for the respondent-Bank if they so choose, to consider the request of the landlord.

The writ petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date: 02.12.2015

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