

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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WRIT PETITION No.32602 of 2014

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

This Writ Petition is filed seeking a direction to the first respondent not to take any coercive steps to evict the petitioner under Section 14 of the Securitization and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (for brevity, 'the Act') except in accordance with the law laid down by the Supreme Court in **Harshad Govardhan Sondagar v. International Assets Reconstruction Company Limited and Others**^[1].

The petitioner is the lessee of the subject property under a registered lease deed executed in their favour on 16.11.2012. Even prior thereto, the lessor had mortgaged the subject property in favour of the first respondent bank in the month of March, 2012. However a notice under Section 13 (2) of the Act was issued, more than a month after the lease deed was executed, on 07.05.2014. Placing reliance on the judgment of the Supreme Court in **Harshad Govardhan Sondagar**¹, the petitioner has invoked the jurisdiction of this Court contending that the only remedy which the first respondent bank has is to approach the Court of the Chief Metropolitan Magistrate or the District Magistrate who is entitled to decide, among others, whether the subject lease is a valid lease or not. It is only after hearing the lessee can any

order be passed by the Magistrate concerned. The Supreme Court, in the aforesaid judgment, also held that the lessee did not have the remedy of approaching the Debt Recovery Tribunal under Section 17 of the Act.

Sri B.S.Prasad, learned Standing Counsel for the first respondent, would submit that the first respondent had already invoked the jurisdiction of the Chief Metropolitan Magistrate under Section 14 of the Act. We have no reason to doubt that the Chief Metropolitan Magistrate would decide the application filed by the first respondent with utmost expedition, after giving all parties thereto, including the petitioner-lessee, a reasonable opportunity of being heard. Till orders are passed, by the Chief Metropolitan Magistrate on the application filed by the first respondent bank, no coercive steps shall be taken to evict the petitioner from the subject property.

The Writ Petition is disposed 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

28th January, 2015.

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[\[1\]](#) (2014) 6 SCC pg.1