

**HON'BLE SRI JUSTICE R. SUBHASH REDDY**

**AND**

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

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**WRIT PETITION No.34269 OF 2015**

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**ORDER:** (Per Hon'ble Sri Justice R. Subhash Reddy)

This writ petition is filed seeking declaration by way of *Mandamus* to declare the inaction on the part of respondent No.3 - District Magistrate - cum - Collector, Nizamabad District, Telangana State in passing orders on the application filed by the petitioner - Andhra Bank, Bodhan Branch, Nizamabad District, under Section 14 (1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act') for taking physical possession of secured asset i.e., Rice Mill in an area of Ac.1-09½ guntas (7067.55 feet plinth area plus 14,900 square feet) in Survey No.127/2, bearing Gram Panchayat No.2-143, situated at Srinivas Nagar, Chakki Camp, Bodhan village and Mandal, Nizamabad District, as illegal and arbitrary.

2. Respondent No.6 – M/s Manipura Industries, represented by its proprietor Sri Bachu Phanindhar, Chekki Camp, Bodhan Town, Nizamabad District, had availed working capital facility for Rs.60,00,000/- (Rupees sixty lakhs only) from the petitioner bank and renewed the same from time to time. To secure repayment of the aforesaid facility, respondent No.6 mortgaged the aforesaid property.

i) After availing the said facility, respondent No.6 committed default in

repayment of the loan amount. Then the petitioner bank classified the loan account of respondent No.6 as Non Performing Asset and initiated proceedings under Section 13(2) of the SARFAESI Act by issuing notice, dated 02-05-2015 demanding respondent No.6 to repay the due amount of Rs.61,32,156.83ps. Respondent No.6, having acknowledged the demand notice, failed to repay the due amount within the stipulated period of (60) days.

ii) As respondent No.6 failed to repay the loan amount due, the petitioner bank moved an application before respondent No.3 under Section 14 (1) of the SARFAESI Act for taking possession of the aforesaid secured asset, but no orders have been passed by respondent No.3.

iii) Meanwhile, since respondent No.6 committed an offence under the Essential Commodities Act, 1955 (for short 'E.C. Act, 1955), the officials of respondent Nos.4 and 5 inspected the mill premises and seized the stocks of paddy/rice and kept them inside the mill premises by locking the premises, which is mortgaged to the petitioner. The petitioner bank also addressed letters to respondent Nos.4 and 5 with a request to hand over the mill premises by removing their seized stocks, but they did not do so. Hence, the petitioner bank approached this Court by filing the instant writ petition.

3. In this writ petition, it is the grievance of the petitioner bank that in spite mortgaging the plant, machinery and land with it by respondent No.6, as security, for the aforesaid loan, they are unable to take possession of the secured asset on account of keeping the mill premises under lock and key by respondent Nos.4 and 5 under the provisions of the E.C. Act, 1955. However, it is to be noted that the petitioner bank does not have any right over the stocks seized by the authorities of respondent Nos.4 and 5 under the E.C. Act, 1955 belonging to respondent No.6.

4 . As much as, the application filed by the petitioner bank, under Section 14(1) of the SARFAESI Act, is pending consideration before respondent No.3, who is also the authority to deal with seized commodities/stocks under the provisions of the E.C. Act, 1955, we deem it appropriate to dispose of the writ petition, directing respondent No.3 to pass appropriate orders on the application filed by the petitioner bank under Section 14 (1) of the SARFAESI Act, within a period of four (04) weeks from today, by following due process of law.

5. Subject to the aforesaid direction, the Writ Petition is disposed of.  
No order as to costs.

6. As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition, stand disposed of.

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**R. SUBHASH REDDY, J**

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**A. SHANKAR NARAYANA, J**

**November 12, 2015.**

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