

**(SHOW CAUSE NOTICE BEFORE ADMISSION)**  
**HIGH COURT OF JUDICATURE AT HYDERABAD**  
**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA**  
**PRADESH**

(Special Original Jurisdiction)  
THURSDAY, THE NINETEENTH DAY OF MARCH  
TWO THOUSAND AND FIFTEEN

:PRESENT:  
**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**  
**AND**  
**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**  
WP :6875 of 2015

Between:

M/s. Concept Hospitality Limited, rep. by its General Manager, Rajanala Venkata Prafulla Kumar, S/o. Rajanala Venkateswara Rao, aged about 47 years, 1-8-333 and 334, Begumpet Police Lines, Secunderabad.

..... Petitioner

AND

- 1 M/s. Syndicate Bank, rep. by its Manager, Rashtrapathi Road, Secunderabad.
- 2 M/s. Punjab National Bank, rep. by its Branch Manager, Mid Corporate Branch,  
Banjara Hills, Hyderabad.
- 3 M/s. Bank of India, rep. by its Branch Manager, A.C. Guards, Hyderabad.
- 4 M/s. Bhagyanagar Hotels (Private) Limited, rep. by its Director, 1-8-333 & 334,  
Begumpet Police Lines, Secunderabad.
- 5 M/s. Sainath Estates Private Limited, rep. by its Director, 18-333 & 334,  
Begumpet  
Police Lines, Secunderabad.

.....Respondents

WHEREAS the Petitioner above named through his Advocate M/s Bharadwaj Associates, presented this writ petition under Article 226 of the Constitution of India, praying that in the circumstances stated in the Affidavit filed herein, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ and direct the respondent banks not to take physical possession of the hotel by name "Manasarovar - the fern" at premises No.1-8-333 and 334, Begumpet Police Lines, Secunderabad from the petitioner, without following the procedure of law;

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of M/s Bharadwaj Associates, Advocates for the Petitioner, directed issue of notice to the Respondents herein returnable in two weeks to show cause as to why this writ petition should not be admitted in the circumstances set out in the petition and the affidavit filed in Writ Petition;

You viz ;

- 1 The Manager, M/s. Syndicate Bank, Rashtrapathi Road, Secunderabad.
- 2 The Branch Manager, M/s. Punjab National Bank, Mid Corporate Branch, Banjara Hills, Hyderabad.
- 3 The Branch Manager, M/s. Bank of India, A.C. Guards, Hyderabad.
- 4 The Director, M/s. Bhagyanagar Hotels (Private) Limited, 1-8-333 & 334, Begumpet Police Lines, Secunderabad.
- 5 The Director, M/s. Sainath Estates Private Limited, 18-333 & 334, Begumpet Police Lines, Secunderabad.

are directed to show cause as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this writ petition should not be admitted.

The Court made the following Order”

**“Notice Before Admission returnable in two (2) weeks.**

**M/s. Bharadwaj Associates, learned counsel for the petitioner, are permitted to take out notice on the respondents by RPAD and to file proof of service within two (2) weeks.**

**Respondents 4 and 5 herein are said to have borrowed money from respondents 1 to 3-Banks, and to have mortgaged the subject asset for obtaining loans. They are said to have entered into a management agreement with the petitioner herein on 18.09.2008, whereby the petitioner was entrusted with the day-to-day management of a five star hotel for a period of 10 years; to manage and operate the Hotel, and to share revenue with respondents 4 and 5 in accordance with the agreement.**

**On the ground that respondents 4 and 5 had defaulted in payment of the loans due to them, respondents 1 to 3-Banks initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the SARFAESI Act”) and issued a notice under Section 13(2) thereof in the year 2013. Thereafter, they approached the Chief Metropolitan Magistrate, Hyderabad under Section 14 of the SARFAESI Act seeking his intervention in taking over possession of the subject property. On receipt of a notice from the Advocate-Commissioner to deliver possession, the petitioner has invoked the jurisdiction of this Court.**

**Sri Vedula Venkata Ramana, learned Senior Counsel appearing on behalf of the petitioner, would submit that respondents 4 and 5 had invoked the jurisdiction of the Debt Recovery Tribunal against the possession notice issued under Section 13(4) of the SARFAESI Act; the Debt Recovery Tribunal had granted stay of all further proceedings on condition that they deposited 25% of the total amount demanded of around Rs.133 crores; though the time stipulated for compliance of the said order expired, respondents 4 and 5 had sought enlargement of**

time; they are in the process of raising funds and are likely to comply with the directions of the Debt Recovery Tribunal within the extended time sought for; and if, in the interregnum, the possession of the Hotel is taken over, not only the petitioner but also around 300 employees engaged thereat would loose their livelihood.

While failure on the part of respondents 4 and 5, to comply with the conditional order passed by the Debt Recovery Tribunal, would enable respondents 1 to 3-Banks to proceed and sell the subject property in accordance with the provisions of the SARFAESI Act, the question which would necessitate examination in these proceedings is whether the petitioner can be dispossessed, even thereafter, as the agreement period ends only in the year 2018.

As the amount due to the Banks is said to be around Rs.133 crores, we consider it appropriate to grant stay of dispossession for a period of three (3) weeks on condition that the petitioner deposits the revenues generated from the Hotel with the 1<sup>st</sup> respondent-Bank, and forbears from making payment, in terms of the agreement, to respondents 4 and 5 for a period of four (4) weeks.

List the writ petition “for admission” on 02.04.2015 in the motion list.

ASSISTANT REGISTRAR

//TRUE COPY//

for ASSISTANT REGISTRAR

To

- 1 The Manager, M/s. Syndicate Bank, Rashtrapathi Road, Secunderabad.
- 2 The Branch Manager, M/s. Punjab National Bank, Mid Corporate Branch, Banjara Hills, Hyderabad.
- 3 The Branch Manager, M/s. Bank of India, A.C. Guards, Hyderabad.
- 4 The Director, M/s. Bhagyanagar Hotels (Private) Limited, 1-8-333 & 334, Begumpet Police Lines, Secunderabad.
- 5 The Director, M/s. Sainath Estates Private Limited, 18-333 & 334, Begumpet

Police Lines, Secunderabad. (addressees 1 to 5 BY RPAD along with a copy of petition and affidavit)

6. One CC to M/s Bharadwaj Associates, Advocates (OPUC)
7. Two Spare Copies

HIGH COURT

AB

DRAFTED ON 20-3-2015

RRJ  
&  
MSMJ

**DATE: 19-03-2015**

**NOTICE BEFORE ADMISSION**

**WP. NO. 6875 OF 2015**

**DIRECTION**