

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Petition No.12474 of 2015

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

Heard Sri K.Mahipathi Rao, learned counsel for the petitioner, and Sri B.S.Prasad, learned counsel for the 1st respondent-Bank and, at their request, the writ petition is disposed of at the stage of admission.

The petitioner took the subject property on lease by way of a registered lease deed dated 22.12.2005, whereby the subject hotel was given to them on lease for a period of 30 years by Smt. P.Shanthi (the owner of the property). Smt. P.Shanthi is said to have later sold the property to Sri Kapil Sharma by registered sale deed dated 16.08.2011, and Sri Kapil Sharma, in turn, mortgaged the said property for the loan taken by him from the 1st respondent-Bank.

The petitioner has invoked the jurisdiction of this Court aggrieved by the notice dated 07.04.2015 issued by the Advocate-Commissioner, pursuant to an order passed by the Chief Metropolitan Magistrate in Crl.M.P.No.4779 of 2014. The petitioner's case, in short, is that no notice was given to them by the Chief Metropolitan Magistrate, Hyderabad on its jurisdiction being invoked under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "the SARFAESI Act").

While fairly stating that no notice was issued to the petitioner, Sri B.S.Prasad, learned Standing Counsel for the 1st respondent-bank, would submit that, instead of granting stay and keeping the writ petition pending on the file of this court, it would suffice if the impugned proceedings are set aside; and the Bank is given liberty to invoke the jurisdiction of the competent Magistrate under Section 14 of the SARFAESI Act; and, after putting the petitioner on notice, to seek fresh orders being passed in accordance with law.

The submission now made by Sri B.S.Prasad, learned Standing Counsel, that the respondents would not take any coercive action pursuant to the order of the Chief Metropolitan Magistrate in Crl.M.P.No.4779 of 2014 is recorded, and the order passed in Crl.M.P.No.4479 of 2014 is set aside for violation of principles of natural justice. It is open to the 1st respondent-Bank to file an application before the competent Magistrate under Section 14 of the

SARFAESI Act. On such an application being filed, the concerned Magistrate shall pass orders afresh in accordance with law, after putting the petitioner on notice and giving them an opportunity of being heard. It is also open to the 1st respondent-Bank to take action thereafter in accordance with law.

The writ petition is disposed of accordingly. 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

01st May 2015.

JSU

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And

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Date: 01.05.2015

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