

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.10751 OF 2015

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

This Writ Petition is filed questioning the sale notice dated 20.03.2015 subjecting several properties, including the property given on lease to the petitioner, to sale on 29.04.2014. The petitioner, in whose favour a registered lease deed was executed by the borrower (albeit after the subject property was mortgaged in favour of the respondent-Bank), invoked the jurisdiction of this Court and filed W.P.No.32602 of 2014, which was disposed by order dated 28.01.2015 recording the submission of Sri B.S.Prasad, learned counsel for the respondent-Bank, that the respondent-Bank had already invoked the jurisdiction of the Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). This Court directed that till the Magistrate decides the application after giving all the parties thereto, including the petitioner-lessee, a reasonable opportunity, no coercive steps shall be taken by the respondent-Bank to evict the petitioner from the subject property.

It is the petitioner's case, in the present Writ Petition, that neither did they receive any notice from the Magistrate nor have any orders been passed under Section 14 of the SARFAESI Act, yet a sale notice was issued bringing the subject property to sale.

Sri B.S.Prasad, learned counsel for the respondent-Bank, would submit that the sale notice refers to several properties; the subject property was included therein by oversight; the jurisdiction exercised under Section 14 of the SARFAESI Act is by the District Magistrate, and not the Chief Metropolitan Magistrate; and the respondent-Bank would not put the subject property to sale till

proceedings are initiated under Section 14 of the SARFAESI Act before the competent authority, and orders are obtained for possession being taken thereof.

Sri Vedula Srinivas, learned counsel for the petitioner, would submit that, as the petitioner's prayer is only to direct the respondents to desist from putting the subject property to sale till proceedings are taken under Section 14 of the SARFAESI Act by the competent authority, it would suffice if the said authority gives the petitioner an opportunity of being heard before any orders are passed by him.

The Writ Petition is disposed of recording the submission of Sri B.S.Prasad, learned counsel for the respondent-Bank, that the subject property would not be put to sale till orders are passed by the competent authority under Section 14 of the SARFAESI Act, after giving the parties, including the petitioner herein, an opportunity of being heard.

The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

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(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

16th April 2015

RRB