

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

WRIT PETITION No.20232 of 2015

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

This writ petition is filed by the petitioner challenging the order dated 1.9.2014 in proceedings D.Dis.MC.1/5509/2014, passed by the 2nd respondent-Collector and District Magistrate, Anantapur District, in exercise of powers conferred under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act"), directing the 4th respondent-Tahsildar, Rapthadu Mandal, Anantapur District, to take possession of the secured assets and hand over the same to the Authorised Officer, State Bank of India, Main Branch, Anantapur.

2. Respondent No.6 has availed loan from the 5th respondent-State Bank of India, Main Branch, Anantapur District, by mortgaging certain property. As the 6th respondent defaulted in repayment of loan amount, on a petition filed by the Authorised Officer, State Bank of India, Main Branch, Anantapur District, proceedings were initiated under the provisions of the SARFAESI Act, and accordingly, the 2nd respondent has passed the impugned order dated 1.9.2014 for taking possession of the secured assets.

3. It is the case of the petitioner that the 6th respondent has played fraud and mortgaged the property illegally, which

actually belongs to him, and the same is accepted by the 5th respondent-Bank without examining the documents and title over the said property.

4. Heard Sri K. Srinivas, learned counsel for the petitioner and Sri B.S. Prasad, learned Standing Counsel for the 5th respondent-Bank.

5. At the outset, it is to be noticed that the impugned order was passed as early as on 1.9.2014. If the petitioner is aggrieved by the said order, he can avail the remedy as provided under Section 17 of the SARFAESI Act, by approaching the Debts Recovery Tribunal concerned. As the petitioner has disputed the factual aspects, there is no reason in entertaining the writ petition, without availing the alternate remedy of appeal, circumventing the provisions under Section 17 of the SARFAESI Act.

6. As it is stated that the official respondents are taking steps to dispossess the petitioner from the subject property pursuant to the impugned order dated 1.9.2014, we deem it appropriate to dispose of the writ petition, permitting the petitioner to approach the Debts Recovery Tribunal concerned, by way of filing an appeal, as provided under Section 17 of the SARFAESI Act, and seek appropriate orders. In view of the apprehension expressed by the petitioner to dispossess him from the subject property, we direct all the parties concerned to maintain *status quo* obtaining on today, for a period of two weeks from today. It is open to the petitioner to move appropriate application before the Debts Recovery Tribunal concerned and, on such application being filed, the same shall be considered

independently on its own merits, uninfluenced by any of the observations made in this order.

7. Subject to the above directions, this writ petition is disposed of, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

06.07.2015.

NOTE: Issue C.C. by 07.07.2015.

(B/O)

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY
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