

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

WRIT PETITION No.30283 of 2015

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

This writ petition is filed with the prayer, which reads as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to pass order or orders direction more particularly in the nature of Writ of Mandamus or any other appropriate writ, order by setting aside the possession notice dated 04.06.2015 and declare the action of the respondent bank in taking physical possession through advocate commissioner in Criminal MP.No.2184 of 2015 on the file of Honourable Chief Metropolitan Magistrate, Hyderabad, in pursuance of the possession notice dated 04.06.2015 in respect of all that the residential Flat No.303, Third Floor, Annapoorna Residency, H.No.12-2-826/A/36 & 12-2-826/A/37, LIC Colony, Mehdiapatnam, Hyderabad, consequently set aside any other proceedings of the respondent as illegal, arbitrary against the principles of natural justice and unfair and pass such other orders or order to which the petitioner is entitled to be in the interest of justice.”

It is the main case of the petitioner that without serving demand notice, as required to be issued under Section 13 (2) of the SARFAESI Act, and the possession notice, the respondent has obtained orders in Crl.M.P.No.2184 of 2015 from the Chief Metropolitan Magistrate, Hyderabad pursuant to possession notice dated 04.06.2015 in respect of the residential Flat bearing No.12-2-826/A/36 & 12-2-826/A/37 situated in LIC Colony, Mehdiapatnam, Hyderabad.

We have perused the counter affidavit and also the supporting material placed on record.

From a perusal of the copy of the demand notice, dated 01.04.2015, filed along with the counter affidavit, it is evident that the petitioner

has acknowledged the receipt of the original notice on 02.04.2015. It is also the case of the respondent – Bank that as the petitioner was avoiding the service of possession notice, the same was served by affixing a copy of it at the address of the petitioner. A copy of possession notice and photographs of its affixture at the address of the petitioner are also placed on record. Hence, it cannot be said that the petitioner was not served with demand notice and possession notice.

For the aforesaid reasons, we do not find any merit in this writ petition and the writ petition is accordingly dismissed. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R.SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

17.11.2015

v v