

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

WRIT PETITION No.27272 of 2015

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

This writ petition is filed seeking direction by way of Mandamus to declare the action of the respondents 1 to 3 in taking steps to dispossess the petitioner from the premises bearing MCH No.4-1-23/A6 & A7 (1st floor), MMR towers, Hanuman Takdi, Abids, Hyderabad, as illegal and arbitrary.

The 4th respondent herein is the owner of the aforementioned premises. He has availed loan facility from the 2nd respondent Bank and defaulted in repaying the same, as such, the respondents 1 and 2 have initiated the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act'). After issuing necessary demand notice and possession notice, the 2nd respondent has filed Crl.M.P.No.3088 of 2014 before the Chief Metropolitan Magistrate, Hyderabad, under Section 14 of the Act, for taking possession of the secured asset. Pursuant to the same, a notice was issued by the 3rd respondent-Advocate Commissioner to take possession of the secured asset and the same was served on the petitioner on 07.04.2015.

It is the grievance of the petitioner that after service of notice, he made a representation offering to purchase the property in question and also deposited certain amounts with

the Bank, but the same is not materialized. In this writ petition, it is the case of the petitioner that as he was not made party to Crl.M.P.No.3088 of 2014, and further, having regard to the fact that he obtained lease in respect of the property in question from the 4th respondent, he cannot be dispossessed from such property.

It is clear from the pleadings on record that though the petitioner claims that he is in possession of the property in question right from 2011, the same is not supported by any registered lease deed. Further as the earlier mortgage in favour of the respondent Bank is not in dispute, it is not necessary for the petitioner to be made as party to Crl.M.P.No.3088 of 2014. After initiating procedure under the Act and issuing demand and possession notices, the respondent Bank has also obtained orders in Crl.M.P.No.3088 of 2014. In that view of the matter and in the absence of valid lease deed, the petitioner cannot resist the taking over of possession by the Bank. As it is submitted by learned counsel for the petitioner that the petitioner is running a dental hospital in the subject property and he needs some time to shift the equipment by relocating the hospital, we are of the view that it is a fit case to grant some time to the petitioner to enable him to shift the equipment from the subject property to any other premises.

For the aforesaid reasons, we are not inclined to grant the relief as prayed for, but at the same time we deem it appropriate to dispose of the writ petition directing the respondents not to take any coercive steps to dispossess the

petitioner from the subject property for a period of six weeks from today, so as to enable him to shift the equipment to any other premises.

Subject to the above directions, the writ petition is disposed of.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

27.08.2015
v v