

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

WRIT PETITION No.34309 of 2015

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

In this writ petition, the petitioner seeks Mandamus to declare the proceedings, dated 19.09.2015, issued by the 1st respondent in exercise of power under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') as illegal, with a consequential direction to the respondents to release the stocks and accessories along with oil tanker, which were seized pursuant to the possession notice issued under Section 13 (4) of the Act.

The 2nd respondent Company is the borrower of certain loan amounts from the 1st respondent-Bank. When the loan amounts were not repaid, the 1st respondent has initiated proceedings under the provisions of the Act. After issuing demand notice, the 1st respondent has issued possession notice under Section 13 (4) of the Act and taken possession of the secured asset.

The petitioner, who is engaged in the business of petrochemicals, biodiesel, industrial waste, mixed solvent etc., has obtained the premises, which is mortgaged to the 1st respondent, on lease from its owner, the 2nd respondent. It is the case of the petitioner that he is in possession of the property pursuant to the registered lease deed dated 02.03.2015 vide document No.5913 of

2015 and as such, he is entitled to continue in possession of the same. In this writ petition, the petitioner has questioned the action of the 1st respondent in locking the leased premises without permitting him to remove the vehicles, stocks of biodiesel and other accessories lying inside the seized premises.

When the matter was called on earlier occasion, it was represented that the vehicles were already released to the petitioner.

On instructions, learned counsel appearing for the 1st respondent – Bank submits that if the petitioner is able to prove his claim with necessary documents that the biodiesel and other accessories lying inside the seized premises belong to him, the 1st respondent – Bank is prepared to return such stocks to the petitioner. However, it is stated that the petitioner is not entitled to seek restoration of possession of the secured asset.

In view of the fact that the subject premises was mortgaged to the 1st respondent prior to execution of the lease deed in favour of the petitioner, the petitioner is not entitled for possession of the same. As the vehicles were already released and in view of the submissions made by learned counsel for the 1st respondent – Bank, we deem it appropriate to dispose of the writ petition directing the 1st respondent to return the stocks of biodiesel and other accessories by verifying the documents to be submitted by the petitioner in proof of his claim that the said stocks belong to him, within a period of three weeks from today.

Subject to the above, the writ petition stands disposed of. No order as to costs.

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

closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

16.11.2015

v v