IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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WRIT PETITION No.24113 of 2015

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Between:

Sri Surapaneni Veerabrahmam

.. Petitioner

And

UCO Bank,
Main Branch, Visakhapatnam
Rep. By its Authorised Officer,
And another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 07-08-2015

SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No

3. Whether Their Lordship wish to see the fair copy of the Judgment? Yes/No

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

WRIT PETITION No.24113 of 2015

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

This writ petition is filed questioning the notice dated 20.05.2015 issued under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act'), demanding the possession of the property bearing plot No.HIG-35, VUDA Sanctioned Phase-III covered under Sy.No.87 of Kurmanapalem Village, erstwhile Gajuwaka Municipality, Visakhapatnam.

The petitioner is a guarantor for the cash credit facility availed by the 2nd respondent with the 1st respondent Bank. When the 2nd respondent defaulted in payment of the loan amount, notice under Section 13 (2) of the Act was issued on 20.05.2015, demanding an amount of Rs.71,73,312/-. Simultaneously, a notice demanding possession was also issued on the same day i.e., 20.05.2015 to the petitioner, who is a guarantor, for delivery of possession of the property, which is mortgaged as the secured asset for the loan obtained by the

2nd respondent.

In this writ petition, it is the grievance of the petitioner that both the demand notice for payment of loan amount and the notice demanding possession of property are issued simultaneously, which shows that the respondent Bank has not followed the procedure contemplated under law.

Heard learned counsel for the petitioner and learned counsel appearing for the 1st respondent Bank.

When a demand notice is issued under Section 13 (2) of the Act, the respondent Bank has to necessarily wait for a period of 60 days before taking further steps and, only in the event of not complying with the demand made under Section 13 (2) of the Act, further steps of issuing possession notice under Section 13 (4) of the Act be taken. But in this case, notice demanding possession was issued to the petitioner on the same day on which demand notice under Section 13 (2) of the Act was issued.

At the hearing, learned counsel for the 1st respondent Bank brought to our notice further notice dated 20.07.2015 issued under Section 13 (4) of the Act by the 1st respondent Bank. In that view of the matter, possession notice dated 20.05.2015, demanding possession of the secured asset from the petitioner, is not in conformity with law and, as such, the same is quashed. However, it is made clear that as further notice dated 20.07.2015 is issued after expiry of 60 days from the date of demand notice dated 20.05.2015, the 1st respondent Bank is not precluded from taking further steps in pursuance thereof, in accordance with law.

Accordingly, the writ petition is disposed of. No order as to costs.

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

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

07.08.2015
v v