

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

WRIT PETITION No.24099 of 2015

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

This writ petition is filed by the petitioner challenging the Notice dated 24.04.2015 issued by the 1st respondent under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act") and the possession notice dated 28.07.2015 issued by the 2nd respondent under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 (for brevity "the Rules") for taking possession of the secured assets belonging to the petitioner.

2. Learned counsel for the petitioner submits that the petitioner has not taken any loan amount from the respondent Bank by mortgaging the properties mentioned in the impugned notices and without the knowledge of the petitioner, the said loan has been sanctioned in favour of the petitioner and transferred to the account of the 3rd respondent-company without any authority and jurisdiction.

3. On the other hand, Sri Ambadipudi Satyanarayana, learned Standing Counsel for the respondent-Bank, submits that the petitioner has availed the loan and defaulted in repayment of the same and, as such, proceedings were initiated under the SARFAESI Act.

4. A perusal of the possession notice dated 28.7.2015 issued under Rule 8(1) of the Rules indicates that earlier there

is a notice dated 24.4.2015 issued to the petitioner under Section 13(2) of the SARFAESI Act, demanding to pay an amount of Rs.3,10,20,384.40 ps. As the petitioner did not fulfill the said demand, the possession notice is issued.

5. If the petitioner is disputing the very grant of loan in its name, the petitioner can approach the Debts Recovery Tribunal by way of filing an appeal under Section 17(1) of the SARFAESI Act. In view of the availability of an efficacious alternate remedy, without exhausting the said remedy, there is no reason in directly approaching this Court under Article 226 of the Constitution of India, moreso, in view of the factual disputes raised by the petitioner.

6. For the aforesaid reasons, this writ petition is dismissed, 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

11.08.2015.

Msr

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