

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

WRIT PETITION No.29316 OF 2015

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

Heard learned counsel for the petitioners and Sri B.S.Prasad, learned Standing Counsel for respondent – Bank.

This Writ Petition is filed questioning the order, dated 11.08.2015, passed in CrI.MP.No.2202 of 2015 by the Chief Metropolitan Magistrate, Hyderabad, in exercise of powers conferred under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act').

Petitioners have availed housing loan from the respondent – Bank and defaulted in repaying the same. Therefore, the respondent – Bank has initiated proceedings under the Act and issued Demand Notice and Possession Notice, under Sections 13 (2) and 13 (4) of the Act. Questioning the Possession Notice, dated 16.09.2014, petitioners have filed S.A.No.667 of 2014 before the Debts Recovery Tribunal, Hyderabad. In I.A.No.3860 of 2014 filed in the said S.A., the Tribunal, by order, dated 09.10.2014, has granted stay of all further proceedings pursuant to the Possession Notice, dated

16.09.2014, on condition of petitioners depositing 20% of the amount claimed in Possession Notice within six weeks, out of which, 10% of the amount shall be deposited within three weeks from the date of the order and the balance 10% shall be deposited within three weeks thereafter. As the petitioners could not deposit the second installment amount within time, they filed I.A.No.4714 of 2014 and the Tribunal, by order, dated 05.12.2014, has extended the time granted for compliance of the order, dated 09.10.2014, but, within the extended time also the petitioners have not deposited the second installment amount and as such, the respondent – Bank has filed an application before the Chief Metropolitan Magistrate, Hyderabad, for taking possession of the secured asset and the Magistrate, by impugned order, dated 11.08.2015, in CrI.MP.No.2202 of 2015 appointed an Advocate Commissioner to take physical possession of the secured asset. Thereafter, the petitioners have complied with the condition imposed in the order, dated 09.10.2014.

It is true that there is some delay on the part of the petitioners in complying with the conditional order, dated 09.10.2014, but in view of the pendency of S.A.No.667 of 2014 before the Debts Recovery Tribunal, Hyderabad, we deem it appropriate to dispose of the Writ Petition by directing the respondent - Bank not to take any steps for

dispossession of the petitioners from the secured asset pursuant to the impugned order, dated 11.08.2015, till S.A.No.667 of 2014 is disposed of by the Debts Recovery Tribunal, Hyderabad. Further, the Tribunal is directed to dispose of the said S.A. as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order.

Subject to the above, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. No costs.

R. SUBHASH

REDDY, J

A. SHANKAR

NARAYANA, J

September 09, 2015

MD