

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

W.P. No.1438 of 2015

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The petitioner, who is now sought to be dispossessed, is the guarantor of a loan borrowed by the second respondent from the first respondent – Bank. It is the petitioner's case that the second respondent had addressed a letter, to the first respondent – Bank, on 29.09.2014 informing them that he was asked to pay Rs.10.00 lakhs before 30.09.2014 in order to bring his irregular overdue account in order, and to pay Rs.10.00 lakhs every month; and, accordingly, they were depositing Rs.10.00 lakhs on 29.09.2014 as agreed, and were operating the plant normally. Again, by letter dated 01.01.2015, the second respondent informed the first respondent – Bank that, in accordance with their commitment, they have been paying Rs.10.00 lakhs each month; and a sum of Rs.40,00,180/- was paid from 30.09.2014 till 31.12.2014. Sri S.Ravi, Learned Senior Counsel appearing on behalf of the petitioner, would submit that the first respondent – Bank has nowhere denied having given any such commitment to the second respondent.

While matters stood thus, the first respondent – Bank filed CrI.MP.No.4502 of 2014 before the Chief Metropolitan Magistrate, Hyderabad and, by order dated 08.12.2014, an Advocate Commissioner was appointed to take inventory of the items lying in the schedule premises, if necessary, by breaking open the lock, and to handover the items which were not mortgaged; and the warrant was returnable on 09.02.2015.

Sri S.Ravi, Learned Senior Counsel appearing on behalf of the petitioner, would submit that the Advocate Commissioner is now seeking to dispossess the petitioner from her commercial shops

situated at Srinivas Nagar Colony, Kapra Municipality, and Nallakunta, University Road, Hyderabad, on which an equitable mortgage was created in favour of the first respondent – Bank. Learned Senior Counsel would submit that the petitioner is unable to invoke the jurisdiction of the Debt Recovery Tribunal (DRT) as the Presiding Officer of the DRT is on leave till 04.02.2015 and would request this Court to protect the petitioner's interest, in the interregnum, to enable her to invoke the jurisdiction of the DRT under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

As the order passed by the Chief Metropolitan Magistrate, Hyderabad, in CrI.MP.No.4502 of 2014 dated 08.12.2014, requires the warrant to be returned only on 09.02.2015, we consider it appropriate to direct that the warrant shall not be executed till 06.02.2015 to enable the petitioner to invoke the jurisdiction of the DRT before then. It is made clear that, in case no orders are passed by the DRT on or before 06.02.2015, it is open to the Advocate Commissioner to execute the warrant. It is also made clear that this Court has not expressed any opinion on merits and the DRT shall consider the petitioner's application, on its merits and in accordance with law, uninfluenced by any observations made in this order.

The Writ Petition stands disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

Date:29.01.2015

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