

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

WRIT PETITION No.39005 of 2015

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

This writ petition is filed with the prayer, which reads as under:

“...Hon'ble Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the proceedings initiated by the respondent No.1 – bank under the provisions of SARFAESI Act, 2002 vide notice dated 29.04.2014 and 08.04.2015 issued U/s 13 (2) and possession notice dated 24.08.2015 issued U/s 13 (4) of SARFAESI Act, 2002 (Act.54 of 2002), R/w Rule 8 (1) of Security Interest (Enforcement) Rules, 2002 and published in Sakshi Daily Newspaper dated 26.08.2015 and possession notice dated 07.10.2015 issued under Section 13 (4) of Act and published in Eenadu Daily Telugu Newspaper and possession notice dated 05.11.2015 issued U/s 13 (4) of the Act and published in Andhra Jyothi Daily Telugu Newspaper dated 06.11.2015 in respect of the properties mortgaged by the respondent No.2 herein in favour of the respondent No.1 Bank i.e., site with AC sheet roof godown and open shed in Door No.11/238 in R.S.No.250/1 in an extent of 357.66 sq. yards situated at Valivarthipadu Village, Gudivada Mandal, Krishna District and Residential Building in R.S.No.214/3, 215/1 of extent 411.25 sq. yards at Valivarthipadu Village, Gudivada Mandal, Krishna District and petrol bunk bearing D.No.10/450-50 R.S.No.47/2B, 47/3B in an extent of 63 cents = 3024 square yards situated in Nagavarappadu within the Municipal limits of Gudivada, within SRO, Gudivada and also Plot No: 55 R.S.No.190/1 extent of 245 sq. yards out of 280 square yards situated in Valivarthipadu within the Municipal Limits of Gudivada & within SRO Gudivada and the E-Auction Sale notification dated 13.11.2015 published in Eenadu Telugu Daily in respect of petrol bunk bearing D.No.10/450-50 R.S.No.47/2B,

47/3B in an extent of 63 cents = 3024 square yards situated in Nagavarappadu within the Municipal limits of Gudivada, within SRO, Gudivada scheduled to be auctioned on 23.12.2015 without considering the objections raised by the petitioners dated 14.10.2015 and 09.11.2015 as required under Sub-section 3 (A) of Section 13 of SARFAESI Act, 2002 in so far as 2/3rd share of the petitioners is concerned as illegal, irrational, unjust, arbitrary and without jurisdiction and also contrary to the provisions of SARFAESI Act, 2002 besides being violative of principles of natural justice and to set aside the said impugned proceedings initiated by the 1st respondent – bank in respect of the said mortgaged properties and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The petitioners claimed that they are the minor children of the 2nd respondent and they have got share in the property.

Heard learned counsel for the petitioners and Smt. V.Dyumani, learned Standing Counsel appearing for the 1st respondent Bank.

In view of the alternative remedy available to the petitioners under Section 17 of the SARFAESI Act against the impugned notices, we are of the view that there is no reason to entertain this writ petition at this stage.

Only on the ground of availability of effective alternative remedy, this Writ Petition is dismissed granting liberty to the petitioners to avail such remedy.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

R. SUBHASH REDDY,J

M.SATYANARAYANA MURTHY,J

15.12.2015

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