

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.8973 OF 2015

Between:

M/s. Sri Gopinath Trading Company

.. Petitioner

and

The City Union Bank Limited and others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: July 28, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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

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

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

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

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WRIT PETITION No.8973 OF 2015

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

This Writ Petition is filed seeking to declare the action of respondents in trying to evict the petitioner and his wife from the house property bearing No.6-76 covered by Survey No.141/A situated at Enumamula Village, Hanamkonda Mandal, Warangal District, as illegal and arbitrary.

Petitioner has availed credit facility from respondent No.1 – Bank vide loan account No.OLCC-139403 by executing various loan documents and by creating security interest. Subsequently, as the petitioner committed default in repaying the monthly installments, he was served with notice as contemplated under Section 13 (2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') and under the assignment agreement, dated 19.05.2014, respondent

No.1 assigned the security interest created by the petitioner in favour of respondent No.2. Thereafter, the petitioner filed a representation requesting 20 days' time. At that stage, though no further notice was issued, petitioner has approached this Court alleging that the respondents are taking steps to evict the petitioner from the property in question without following due process of law.

Counter affidavits are filed by respondent No.1 as well as respondent Nos.2 and 3. In the counter affidavits, while denying the various allegations made by the petitioner, they have stated that they have not taken any steps to evict the petitioner from the property in question as averred by him.

After issuing notice under Section 13 (2) of the Act, no further steps are taken by the respondents either for taking possession or for selling the security interest created by the petitioner. It appears that only on apprehension petitioner has approached this Court with the relief as sought for.

In view of the averments made in the counter affidavits filed on behalf of the respondents, we deem it appropriate to dispose of the Writ Petition by directing the respondents that in the event of declaring the account of petitioner as N.P.A., steps should be taken in accordance with law and the petitioner shall not be dispossessed from the property in question otherwise than due process of law.

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

July 28, 2015

MD