

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

W.P. No.321 of 2015

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

The inaction on the part of the respondent – Bank in handing over possession of the subject house, despite having received the entire amount on 11.11.2011, and having issued the sale certificate dated 27.02.2014, is questioned in this Writ Petition as being arbitrary and illegal.

Pursuant to an auction conducted under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'), the petitioner herein participated in the auction, and was the successful bidder. He paid the bid amount of Rs.27,03,600/- on 11.11.2011. Thereafter, the sale certificate was issued on 27.02.2014. The petitioner's grievance is that, despite receipt of the entire bid amount, and having confirmed the sale by issuing sale certificate under Rule 9(6) of the Security Interest (Enforcement) Rules, 2002, the respondent – Bank has failed to handover the subject property till date.

A counter affidavit is filed on behalf of the respondent – Bank in justification of the delay in delivery of possession.

Sri M.Narender Reddy, Learned Senior Counsel appearing on behalf of the respondent – Bank, on instructions, would submit that the respondent – Bank has already invoked the jurisdiction of the Chief Metropolitan Magistrate, Hyderabad, under Section 14 of the SARFAESI Act, in Crl.MP.No.158 of 2014; Sri M.D.Khaleel was appointed as the Advocate Commissioner for delivery of physical possession; and the Advocate Commissioner was unable to deliver possession as police assistance was not given and there was obstruction from the occupants.

While we are initially inclined to ascertain why the Advocate Commissioner has failed to deliver physical possession though the respondent – Bank has received the entire amount more than three years ago, Sri M.Narender Reddy, Learned Senior Counsel appearing on behalf of the respondent – Bank, would assure this Court that physical possession of the property would be delivered to the petitioner with utmost expedition.

In view of the submission now made by Sri M.Narender Reddy, Learned Senior Counsel appearing on behalf of the respondent – Bank, ends of justice would be met if the respondent – Bank is directed to deliver physical possession to the petitioner herein at the earliest and, in any event, not later than 31.03.2015. In case physical possession is not handed over by then, it is open to the petitioner to seek refund of the amount paid by him, along with interest and costs.

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:25.02.2015

Note:CC by 27.02.2015

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