THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

<u>WRIT PETITION No.9050 of 2007</u>

<u>ORDER</u>: (Per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner in this case is as under:

> "For the reasons stated in the accompanying affidavit, it is prayed that the Honorable Court may be pleased to pass appropriate order or orders or writ more particularly one in the nature of Writ of Mandamus declaring the action of respondent Nos.1 to 4 in taking over the possession of assets of respondent No.5 under Section 13(4) and Section 14 of SARFAESI Act, 2002 as arbitrary, illegal, violative of principles of natural justice, contrary to the procedure laid down under Section 13 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the rules framed thereunder, ratio laid down by Honorable Apex Court in *Mardia Chemicals Limited Vs. Union of India* reported in *2004(4) Supreme Court Cases, at Page 311 (para Nos. 45 and 80)* and also in *AIR 2004 Supreme Court, at Page 2371,* contrary to Section 22 of Sick Industrial Companies (Special Provisions) Act, 1985, contrary to the ratio laid down by the Honorable Supreme Court in the matter of interest of workers reported in *2006(8) Supreme Court cases, at Page 677, 2006(3) Supreme Court Cases, at Page 434 and AIR 1983 Supreme Court, at Page 75* and contrary to the right of workers protected under Section 529 and 529(A) of Indian Companies Act, 1956 and quash the proceedings initiated by the respondent Nos.1 to 4 bank under Section 13 more particularly under Section 13(4) and 14 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with Rule 8 of Security Interest (Enforcement) Rules, 2002 and direct the respondent Nos.1 to 4 to redeliver the possession of the movable and immovable assets to the respondent No.5 and its co-promoters i.e., respondent Nos.6 to 9 herein or pass such other order or orders as the Honorable Court may deem fit and proper in the circumstances of the case."

It is however an admitted fact that no sale of the secured asset has taken place till date and that the respondent bank has also assigned the financial asset to a securitization company.

We therefore see no reason to entertain this writ petition dating back to year 2007. In the event the petitioner Union has any grievance with regard to the steps taken hereafter, it would be open to it to seek appropriate remedies in accordance with law.

The writ petition is accordingly dismissed subject to the above observation.

Pending miscellaneous petitions, if any, shall also stand dismissed. order as to costs.

SANJAY KUMAR, J

Dr. B. SIVA SANKARA RAO, J

14th July, 2016
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