

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

WRIT PETITION No.1729 of 2016

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

This writ petition is filed by the petitioner seeking *Mandamus* to declare the action of the respondent-Bank in taking steps to dispossess the petitioner from the mortgaged property bearing H.No.13-3-1369 (old), 13/483/19 (new) 13-3-177, situated at Pathak Muhalla, Warangal District, during the pendency of I.A.No.221 of 2015 in S.A.No.763 of 2014 filed by the petitioner seeking extension of time for compliance of interim order dated 13.11.2014 passed by the Debts Recovery Tribunal, Hyderabad, as arbitrary and illegal.

2. The petitioner has availed a loan Rs.15,00,000/- from the respondent-Bank, by mortgaging property bearing H.No.13-3-1369 (old), 13/483/19 (new) 13-3-177, situated at Pathak Muhalla, Warangal District, which is to be repaid in instalments @ Rs.30,000/- per month within seven years. As the petitioner has defaulted in repayment of the said amount, the loan account of the petitioner was declared as N.P.A. and the respondent-Bank has initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the SARFAESI Act') to sell the secured asset. Challenging the same, the petitioner has filed

S.A.No.763 of 2014 before the Debts Recovery Tribunal, Hyderabad. After hearing the matter, the Tribunal was pleased to pass interim stay, by order dated 13.11.2014, on condition of the petitioner depositing a sum of Rs.3,00,000/- in two instalments @ Rs.1,50,000/- each within a period of eight weeks from the date of the said order. As the said condition was not complied with within the stipulated time, the respondent-Bank has initiated proceedings under the provisions of the SARFAESI Act. Hence, the present writ petition.

3. It is represented by the learned counsel for petitioner that due to the financial stringencies and as the petitioner is not keeping good health, the conditional order passed by the Tribunal could not be complied with by the petitioner within the stipulated time, however, subsequently, the petitioner has deposited more than Rs.7,00,000/- in the aforesaid loan account. It is further represented that during the pendency of I.A.No.221 of 2015 in S.A.No.763 of 2014 filed by the petitioner seeking extension of time to comply with the order dated 13.11.2014, the respondent-Bank is taking coercive steps to dispossess the petitioner from the secured asset.

4. On the other hand, Sri B.S. Prasad, learned Standing Counsel for the respondent-Bank, submits that the petitioner has not only committed default in repayment of the loan amount, but also has not complied with the conditional order dated 13.11.2014 passed by the Tribunal. It is further

represented that an amount of Rs.12,98,790/- is due and payable by the petitioner as on 22.01.2016.

5. We have perused a copy of the Statement of Accounts from 01.01.2013 to 22.01.2016 pertaining to the loan account of the petitioner, which is placed before this Court. A perusal of the same discloses that subsequent to the interim order dated 13.11.2014 passed by the Tribunal, the petitioner has deposited more than Rs.7,00,000/- on various dates. Further, it is to be noticed that still an amount of Rs.12,98,790/- is due and payable by the petitioner as on 22.01.2016.

6. Therefore, taking into consideration the repayment of loan amount made by the petitioner subsequent to the passing of interim order dated 13.11.2014 and in view of the pendency of S.A.No.763 of 2014 before the Tribunal, we deem it appropriate to dispose of the writ petition directing the respondent-Bank not to take any further steps to dispossess the petitioner from the subject property bearing H.No.13-3-1369 (old), 13/483/19 (new) 13-3-177, situated at Pathak Muhalla, Warangal District, on condition of the petitioner depositing a sum of Rs.3,00,000/- (Rupees three lakhs only) within a period of eight weeks from today, with a further direction to the Debts Recovery Tribunal, Hyderabad, to dispose of S.A.No.763 of 2014 as expeditiously as possible, by passing appropriate orders in accordance with law.

7. Subject to the above directions, this writ petition is disposed of, at the admission stage. As a sequel,

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

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

25.01.2016.
Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY
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WRIT PETITION No.1729 of 2016

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