

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

WRIT PETITION No.36293 of 2015

—

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

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

“That this Hon'ble Court maybe pleased to issue a Writ , Order or Direction more particularly one in the nature of Writ of Mandamus declaring the Demand Notice dated 29-07-2015 issued by the Respondent under Section 13(2) of the SARFAESI Act and also the order passed by the Respondent dated 16-10-2015 under Section 13(3A) of the SARFAESI Act as illegal, high handed, arbitrary and against to the provisions of the Act, the spirit of Legislation and Judgment of Hon'ble Supreme Court rendered in Mardia Chemicals Ltd, Vs Union of India reported in 2004 (4) SCC 311 and consequentially to set aside the same.”

The settled legal position is that no writ petition would lie against a demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the Act of 2002'). Further, it is also well settled that against a communication from the secured creditor rejecting the representation/objections made by the borrower under Section 13(3A) of the Act of 2002, no remedy, be it by way of an application under Section 17 of the Act of 2002 or by way of writ petition under Article 226 of the Constitution, is available. It is only after initiation of proceedings under Section 13(4) of the Act of 2002 that the borrower can take recourse to a legal remedy.

In that view of the matter, the writ petition is not maintainable and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

**SANJAY
KUMAR, J**

**Dr. B. SIVA
SANKARA RAO, J**

Date:14.06.2016

GJ

