

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

-
WRIT PETITION No.39490 of 2015

-
Date:19.07.2016

-
Between:

M/s. Muppidi Enterprises, rep. by its
Managing Partner Muppidi Chandra Sekhar
S/o. Sri Ranganayakulu, aged about 49 years,
r/o. D.No.5-5/29, 1st Floor, Backside of
Panduranga Temple, Pandurangapuram,
Visakhapatnam – 530 013.

.. Petitioner

and

The State Bank of India,
Rep. by its Assistant General Manager
- cum – Authorised Officer, Main Branch,
Rednam Gardens, Visakhapatnam,
and another.

.. Respondents

Counsel for the Petitioner: Mr. C. Raghu

Counsel for the Respondents : Mr. K.B. Ramanna Dora

THE COURT MADE THE FOLLOWING:

ORDER: (*Per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This writ petition is filed for the following substantive relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the impugned notice dated 26.11.2015 issued by the 1st respondent under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as being illegal, arbitrary and without any authority of law as well in contravention of Section 31 (j) of the said Act, and consequently set aside the same, and pass such other order or orders as this Hon'ble Court may deem fit and proper.”

At the hearing, Mr. C.Raghu, learned counsel for the petitioner, fairly agreed that his client is prepared to avail the remedy of appeal under Section 17 of the Securitization and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'). He, however, requested that to enable his client to file appropriate application, for interim relief, before the Debt Recovery Tribunal, interim order dated 08.12.2015 granted by this Court in this writ petition may be continued for a reasonable period.

Mr. K.B. Ramanna Dora, learned Standing Counsel for the State Bank of India appearing for the respondents, did not oppose the request for continuing the interim order for a limited period.

In the light of the above facts and the submissions of

the learned counsel for the parties, the Writ Petition is disposed of,

without adjudication on merits of the case, by granting liberty to the petitioner to avail the remedy of appeal under Section 17 of the SARFAESI Act. The petitioner is also permitted to file an application for condonation of delay in filing the appeal and also appropriate application for interim relief and, in such an event, the Tribunal shall consider the entire facts and take appropriate decision there of. As it is submitted by the learned counsel for the parties that regular Presiding Officer has not been functioning in the Debt Recovery Tribunal of Hyderabad and an incharge Officer is visiting Hyderabad, but not in regular intervals, to facilitate the petitioner to claim interim relief, interim order dated 08.12.2015 passed in this writ petition shall be continued for a period of two months. If the petitioner files the appeal within four weeks, the Tribunal shall pass appropriate orders in the condone delay petition as well as the application for interim relief, if any filed by the petitioner, after notice to all the respondents in the proposed appeal, within one month thereafter.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.Nos.50928 of 2015 & 26970 of 2016 are disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

A.V.SESHA SAI,J

19.07.2016
v v