

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE R. KANTHA RAO

Writ Petition No.14922 of 2016

ORDER: (*per Hon'ble Sri Justice V.Ramasubramanian*)

The petitioner, who was inducted as a tenant in the mortgaged property, prior to the creation of mortgage, has come up with the above writ petition, challenging the order passed by the Chief Metropolitan Magistrate, Cyberabad at L.B.Nagar, Ranga Reddy District, under Section 14 of the SARFAESI Act, 2002.

2. Heard Sri P.V.Vidyasagar, learned counsel for the petitioner and Sri B.S.Prasad, learned counsel for the 1st respondent-Bank.

3. Unfortunately, the monthly rent payable by the petitioner is in excess of ceiling limit fixed under A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960. Therefore, the petitioner is not a tenant protected under Tenancy Laws. In such a case, the ratio laid down by the Supreme Court in '*Harshad Govardhan Sondagar vs. International Assets Reconstruction Co. Ltd*'^[1], as clarified in '*Vishal N.Kalsaria vs. Bank of India*'^[2], will not apply to the petitioner.

4. In view of the above, the petitioner has filed an affidavit of undertaking, which reads as follows:

"I, Amtul Fatima Shakira banu D/o Syed Shamshad Ali, aged 35 years, Occupation: Business, R/o 2-6-5/II/54, Farahat Manzil, Happy Homes township, Upparpally, Rajendranagar, Ranga Reddy Dist.-500086, do hereby solemnly affirm and state on oath as follows:

1. I am the petitioner herein and as such I am well acquainted with the facts of the case and able to depose hereunder.

2. I submit that I undertake to deliver peaceful and vacant possession of the residential building bearing R/o 2-6-

5/11/54, Farahat Manzil, Happy Homes township, Upparpally, Rajendranagar, Ranga Reddy Dist – 500086, to the first respondent within six months from today. Hence, this affidavit of undertaking.”

5. Considering the above, the writ petition is disposed of giving time up to 31.07.2016 for the petitioner to vacate and handover vacant possession. Till then, the respondent shall not proceed further to take forcible possession of the property. There is no order as to costs. Pending miscellaneous applications if any, in this writ petition shall stand closed.

V.RAMASUBRAMANIAN, J

R.KANTHA RAO, J

Date: 29.04.2016
Note: Furnish CC tomorrow
(BO)
BSS

HON’BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON’BLE SRI JUSTICE R.KANTHA RAO

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(per Hon’ble Sri Justice V.Ramasubramanian)

Date: 29.04.2016

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[1] (2014) 6SCC 1

[2] AIR 2016 SC 530