

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE DR. JUSTICE B. SIVA SANKARA RAO
WRIT PETITION No.19272 of 2016

ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

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

“It is prayed that this Hon'ble Court may be pleased to issue a Writ direction or order more in the nature of Writ of Mandamus declaring the action of the respondent bank in taking the physical possession by putting the locks of the property bearing H.No.8-139/1, double storey building on Plot No.154 Part, area 200 Sq.yards or 167.20 Sq.mts. in Sy.Nos.57, 75 & 76, situated at Vivekananda Nagar of Quthbullapur Village, Mandal & Municipality, Sub-District Medchal, Ranga Reddy District, as illegal and arbitrary and oppose to the act and the rules of the SARFAESI Act and also the principles laid down in *Harshad Goverdhan* case and *Vishal N Kalsaria* case rendered by the Hon'ble Supreme Court, consequently direct the respondent bank to re-deliver, reconstitute and status-quo ante the petition schedule property to the petitioner and his tenants (*who are claiming through him*) forthwith, in the interest of justice.”

Sri Podila Hari Prasad, learned counsel for the respondent bank, would state that the default committed by the petitioner in repaying the loan advanced by the bank towards housing and furniture resulted in the said loan account being classified as a Non Performing Asset. Learned counsel would further state that the outstanding dues of the petitioner stands at Rs.12,16,961/- as on today.

Though various issues are sought to be raised by Sri Sharad Sanghi, learned counsel for the petitioner, he fairly conceded that if his client is given sufficient time, he would clear the entire outstanding dues of the respondent bank. In proof of his client's *bonafides*, Sri Sharad Sanghi produced before us two banker's cheques bearing Nos.011196 & 011197, both dated 21.06.2016, drawn on State Bank of India, HAL Campus, Hyderabad, for Rs.50,000/- each. The said cheques are handed over to Sri Podila Hari Prasad, learned counsel for the respondent bank.

As the petitioner is genuinely inclined to discharge his outstanding

liability to the respondent bank, the Writ Petition is disposed of directing the respondent bank to continue its symbolic possession of the subject ground floor premises while the petitioner would remain in actual physical possession in the capacity of a licensee by virtue of this order. Further, the petitioner shall deposit on or before 23.07.2016, a sum of Rs.5,00,000/- (Rupees five lakhs only) to the credit of his loan account with the respondent bank and the balance outstanding dues in their entirety as informed to him by the respondent bank shall be cleared on or before 23.08.2016. In the event the petitioner commits any default in making the aforestated payments, be it in respect of the first instalment or the second instalment, the respondent bank would be at liberty to proceed in the matter in accordance with law. In such an event, the petitioner is bound to handover the actual possession of the ground floor premises along with the relevant documents to the respondent bank without protest. We also make it clear that the petitioner shall not induct any fresh tenants into the premises at this stage.

Pending Miscellaneous Petitions shall stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 23.06.2016
ska