

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.33239 of 2016

Date:29.9.2016

Between:

Manthena Ramakrishnam Raju,
S/o Late Appala Rao and two others.

..... Petitioners

And:

Bank of Baroda, Bhimavaram
Branch, reptd by its authorized
Officer and two others.

....Respondents

Counsel for the petitioners: Mr. B.S.Karthik

Counsel for the respondents: None appeared

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:

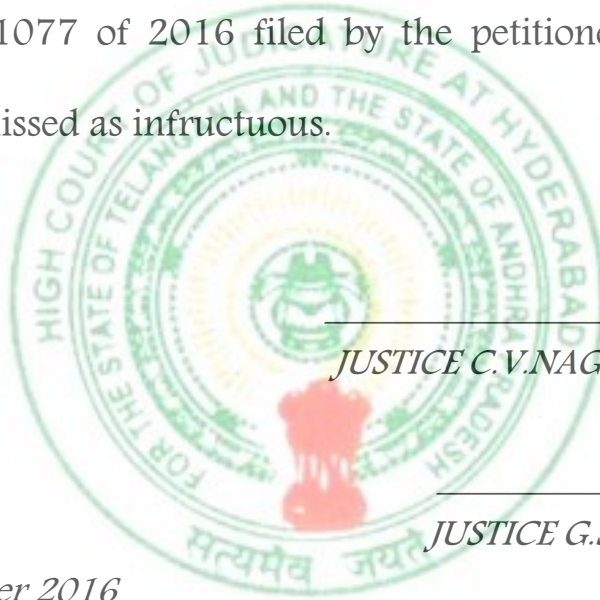
“..... to issue a writ of Mandamus by declaring the action of the 1st respondent invoking the provisions and powers under SARFAESI Act and to proceed against the petitioners joint Family Agricultural property situated in RS No.146/8 of an extent of Ac.0-27 cents out of Ac.1.15 cents at Jakkaram Village, Kalla Mandal, W.G. District as illegal, arbitrary, unlawful, highhanded and contrary to the principles of natural justice and consequently, to quash the same by declaring the same as null and void.”

The petitioners have pleaded that the property in dispute, in respect of which notice under Section-13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ‘SARFAESI Act’) is issued, is the joint family property regarding which, the suit filed by the petitioners against respondent Nos.2 and 3 is pending and that respondent No.1 has issued a notice under Section-13(2) of the SARFAESI Act and is contemplating to take further steps under Section-13(4) thereof. Under Sub-section-(3A) of Section-13 of the SARFAESI Act, a person who receives notice under Section-13(2) of the Act is entitled to send his objections. This provision also bars the person who received such notice from initiating legal action until any of the measures under Section-13(4) of the SARFAESI Act are initiated.

Admittedly, no such measures have been initiated by respondent No.1 so far. Only upon initiation of such measures, the petitioners are entitled to avail a legal remedy under Section-17 of the SARFAESI Act, which, in our opinion, is an appropriate one.

In the light of the above facts and subject to the above observations, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.41077 of 2016 filed by the petitioners for interim relief is dismissed as infructuous.



JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

29th September 2016

DR