

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

WRIT PETITION No.33679 of 2015

Date:18.7.2016

Between:

K.Yadgonda,
S/o K.Beergonda

.....Petitioner

And:

The Authorized Officer,
Repco Home Finance (Ltd),
Chennai and another.

....Respondents

Counsel for the petitioner: Mr. B.S.S.Prasad

Counsel for Respondents: None appeared

The Court made the following:

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

This Writ Petition is filed for a *Mandamus* to declare the action of the respondents in trying to obtain physical possession of the petitioner's property consisting of ground + two upper floors existing on Plot No.231/A/part in Survey Nos.160, 162, 163/1, 164 and 165/1 of Mailardevpally Village, Rajendra Nagar Mandal, Ranga Reddy District, in pursuance of notice, dated

07.9.2015, issued under Section-13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'), as illegal and arbitrary.

We have heard Mr. B.S.S.Prasad, learned counsel for the petitioner and perused the record.

The petitioner is the borrower from the respondents. A demand notice under Section-13(2) of the SARFAESI Act was issued on 11.3.2015 to the petitioner, his co-borrower and the guarantor for repayment of the loan amount of Rs.12,21,825/- with further interest from 11.3.2015 onwards. As none of them, including the petitioner, complied with the demand within the stipulated time, possession notice under Section-13(4) of the SARFAESI Act was issued on 07.9.2015. Assailing the same, the petitioner filed this Writ Petition.

This Court, while issuing notice before admission on 12.10.2015, granted interim direction in favour of the petitioner, subject to his depositing a sum of Rs.3 lakhs within four weeks. Since then, though the case underwent as many as eight adjournments, the petitioner failed to comply with the said conditional interim order. The petitioner filed WPMP.No.54991 of 2015 on 18.12.2015 for extension of time for complying with the conditional interim order. A perusal of the affidavit, filed in support of this application, shows that no firm assurance is given by the petitioner as to the time frame within which he will deposit the demand amount and no specific time for which he is seeking extension of interim order is also indicated. The tenor of the averments of the affidavit, thus, clearly shows that the petitioner is wholly non-committal about the deposit of the part-payment, as directed by this Court.

We have also perused the averments contained in the affidavit, filed in support of the Writ Petition, which show that no ground has been raised, by which, this Court could invalidate the impugned notice issued under Section-13(4) of the SARFAESI Act. The petitioner is not disputing his liability.

In the afore-mentioned facts and circumstances of the case, we do not find any merit in this Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, interim order, dated 12.10.2015, is vacated WPMP.Nos.43419 and 54991 of 2015 filed by the petitioner are dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

JUSTICE G.SHYAM PRASAD

*18th July 2016
DR*