

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION No.32118 of 2015

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Between:

Mr. Anantha Reddy Nadeaguoni and another

.. Petitioners

Vs.

Union of India represented by its Secretary,
Ministry of Finance, New Delhi and others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 30.06.2016

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

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|----|--|--------|
| 1. | Whether Reporters of Local newspapers
may be allowed to see the judgment? | Yes/No |
| 2. | Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. | Whether Their Lordships wish to
see the fair copy of the judgment? | Yes/No |

SANJAY KUMAR, J

Dr. B. SIVA SANKARA RAO, J

*** THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

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% DATED 30th June, 2016

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<Gist:

>Head Note:

! Counsel for petitioners : Sri Salvaji Raja Shekar Rao

^Counsel for respondents : Sri B. Krishna Mohan and
Sri Lanka Jagannadham

? CASES REFERRED:

1. (2013) 9 SCC 620

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**

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WRIT PETITION No.32118 of 2015
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ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

Challenge in this writ petition is to the proceedings dated 16.06.2015 issued by the Collector and District Magistrate, Mahabubnagar, in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act of 2002').

By order dated 01.10.2015, this Court granted interim suspension of the impugned proceedings dated 16.06.2015 subject to the petitioners depositing Rs.30.00 lakh out of which Rs.15.00 lakh was to be deposited within four weeks and the remaining Rs.15.00 lakh within six weeks thereafter. It is however an admitted fact that this conditional order has not been complied with.

Sri Salvaji Raja Shekar Rao, learned counsel for the petitioners, would however contend that the impugned proceedings dated 16.06.2015 do not satisfy the amended provisions of Section 14 of the Act of 2002 and therefore warrant interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution, notwithstanding the petitioners' failure to comply with the order dated 01.10.2015.

Perusal of the amended provisions of Section 14 of the Act of 2002 reflects that after 15.01.2013, a secured creditor who seeks to take recourse to the power of the Chief Metropolitan Magistrate or the District Magistrate thereunder to take possession of the secured asset must file an affidavit duly affirmed by the authorised officer of the secured creditor setting out the

particulars detailed in sub-clauses (i) to (ix) of clause (b) of sub-section (1) of Section 14 of the Act of 2002. The second proviso to Section 14 of the Act of 2002 requires the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, to satisfy himself as to the contents of the affidavit received from the authorised officer and thereafter pass suitable orders. Dealing with these provisions in **Standard Chartered Bank v. V. Noble Kumar**^[1], the Supreme Court made it clear that after the amendment of Section 14 of the Act of 2002, the Magistrate concerned can pass suitable orders for taking possession of the secured asset only after being satisfied with the contents of the affidavit and in this regard he would have to record his satisfaction.

No doubt, recording of satisfaction in terms of the afore-stated provisions may not require detailed reasons being set out by the Magistrate concerned but there must at least be evidence of application of mind by the Magistrate to the contents of the affidavit to satisfy himself that the statutory requirements have been duly complied with.

The impugned proceedings dated 16.06.2015 fall woefully short insofar as this requirement is concerned. There is not even a mention of any affidavit having been filed by the authorised officer of the secured creditor, the fourth respondent herein, much less any satisfaction of the District Magistrate, Mahabubnagar, with regard to the contents thereof.

On this short ground, the impugned proceedings dated 16.06.2015 are set aside and the writ petition is allowed. This order shall however not preclude the secured creditor, the fourth respondent, from initiating action afresh under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, in accordance with law.

The Registrar (Judicial) of this Court is directed to mark a copy of this order to each unit head in the States of Telangana and Andhra Pradesh for onward transmission to all the Chief Metropolitan Magistrates/Chief Judicial

Magistrates in the units and also to the District Magistrates for their guidance.

Interim order dated 01.10.2015 shall stand vacated. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Dr. B. SIVA SANKARA RAO, J

Date:30.06.2016

Note:

L.R. copy to be marked.

(b/o)

GJ

[\[1\]](#) (2013) 9 SCC 620