

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.33992 of 2016

30.09.2016

Between:

M.Rajendra Prasad

..Petitioner

And

State Bank of India, Warangal

..Respondent

Counsel for the petitioner: Mr.A.Jagan

Counsel for the respondent: Mr.Maruthi Jadhav, for Mr.B.S.Prasad

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The possession order, dated 15.09.2016, in CrI.M.P.No.33 of 2016 on the file of the Chief Judicial Magistrate, Warangal, is assailed in this writ petition.

2. The only issue that is argued by Mr.A.Jagan, learned counsel for the petitioner, is that under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'), it is only the Chief Metropolitan Magistrate, who has jurisdiction to issue possession order and that in the instant case, the Chief Judicial Magistrate has issued the possession order.

3. The above aspect is no longer *res integra* in view of the judgment in T.R.Jewellery vs. State Bank of India¹, wherein it was held that wherever the Chief Metropolitan Magistrate is not available, the secured creditor is entitled to approach the Chief Judicial Magistrate. In view of the same, we do not find any merit in this writ petition. However, the learned counsel for the petitioner has requested for reasonable time for the petitioner to pay the entire outstanding loan amount.

4. Considering the above request of the learned counsel for the petitioner on humanitarian grounds, the petitioner is given two weeks time from today for payment of the entire outstanding loan amount. Till expiry of the said period, the respondent shall not enforce the impugned possession order. If the petitioner fails to pay the amount as promised by his counsel within two weeks from today, the respondent shall be free to proceed further in pursuance of the impugned possession order.

¹ 2016(2) ALT 226 (F.B.)

5. Subject to the above directions, the Writ Petition is disposed of.
6. As a sequel to disposal of the writ petition, W.P.M.P.No.41936 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

30th September, 2016
GHN

