

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**AND**

**THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

**WRIT PETITION No.3975 of 2016**

**ORDER:** *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

Learned counsel for the 4<sup>th</sup> respondent/Bank has brought to our notice that the order passed by us on 23.02.2016 has not been complied with.

None appears for the writ petitioners and there is also no representation on their behalf. None appears for respondent Nos.5 and 6 also. Heard Sri B.S.Prasad, learned counsel for the 4<sup>th</sup> respondent.

Petitioner Nos.1 to 10 are stated to be the students pursuing Engineering/Technology courses with 5<sup>th</sup> and 6<sup>th</sup> respondents. When the 4<sup>th</sup> respondent/Bank started taking measures for securitisation of the outstanding debt, as against 5<sup>th</sup> and 6<sup>th</sup> respondents by approaching the Collector and District Magistrate, YSR Kadapa District, in terms and in accordance with Sub Section 4 of Section 13 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002( for short 'the Act') read with Sub Section 1 of Section 14, the said District Magistrate authorized the Tahsildar, Railway kodur, Kadapa District, to take possession of the secured assets and then he was also authorized to handover the possession thereof to the 4<sup>th</sup> respondent, the petitioners have approached this Court on the plea that if the secured assets mortgaged by 5<sup>th</sup> and 6<sup>th</sup> respondents are taken possession by the Tahsildar and if they are handed over to the 4<sup>th</sup> respondent/secured creditor, it is they who will suffer and hence, they instituted the above writ petition.

We have debated at the bar with the learned counsel for the petitioners that the petitioners have been set up by respondent Nos.5 and 6, College Management, so that out of sympathy and compassion towards students which we generally have, the cause of 5<sup>th</sup> and 6<sup>th</sup> respondents will get protected vis-à-vis the 4<sup>th</sup> respondent. At that stage, learned counsel for 5<sup>th</sup> and 6<sup>th</sup> respondents Sri Ch Srinivas, has urged before us to grant at least one week so that 5<sup>th</sup> and 6<sup>th</sup> respondents will demonstrate

their bona fides by depositing at least 50% of the outstanding liability to the 4<sup>th</sup> respondent/Bank. Accordingly, we adjourned the matter to 01.03.2016. However, a request was made yesterday that the matter may be taken up today. When we have taken up this matter today, there is no representation as already referred to supra by us.

The students, who are petitioners in this case, are not the borrowers. They are only pursuing their academic courses offered by the principal borrowers being respondent Nos.5 and 6. The 4<sup>th</sup> respondent/Bank, which answers the description of a 'Bank' as defined under Section 2(1)(c) of the Act has taken steps and measures as provided for under Section 13 read with Section 14 of the Act. Consequently, respondent Nos.5 and 6 answer the description of 'borrower' and the security interest which they have created by mortgaging the property in question answers the said expression as defined in the Act. Therefore, the legitimate action of the 4<sup>th</sup> respondent/secured creditor in taking steps as provided for under Section 13 read with 14 of the Act, no exception can be drawn thereto. Since the writ petitioners have no relationship or interest, which can be recognized under law in the mortgaged asset, we hold that the petitioners have no locus to challenge the action of securitization measures adopted by the 4<sup>th</sup> respondent. It is to remember that the SARFAESI Act has been ushered in by Parliament for purpose of securing the interest of the financial institutions and hence, it being a special piece of legislation which is intended to protect the interest of secured creditors in the matter of realising the outstanding debt which was due from their borrowers, the present *lis* cannot be entertained at the behest of an unconcerned individual.

Hence, this writ petition stands dismissed.

Consequently, miscellaneous petitions, if any shall stand dismissed. No costs.

---

**JUSTICE NOOTY RAMAMOHANA RAO**

---

**JUSTICE Dr. B.SIVA SANKARA RAO**

02.03.2016

ska