THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No. 35832 OF 2015

O R D E R: ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

The three petitioners herein sought for a writ of mandamus for declaring the proceedings dated 21.09.2015 issued by the District Revenue Officer-cum-Additional District Magistrate, Warangal entertaining and passing an order on the Application moved by the 2nd respondent State Bank of Hyderabad for taking measures provided for under sub-section (1) of Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), as illegal.

The 2nd respondent bank appears to have taken securitization measures against the defaulting borrowers as provided for under Section 13 of the SARFAESI Act. However, for taking possession of the secured asset, for the purpose of selling it away for realizing the outstanding dues, the 2nd respondent secured creditor requested the District Magistrate within whose jurisdiction the secured asset is situated. It is that Application, which has been entertained by the District Revenue Officer-cum-Additional District Magistrate, Warangal.

Sub-section (1) of Section 14 of the SARFAESI Act reads as under:

> "**14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of the secured asset:-**
>
> (1) Where the possession of any secured asset is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the

District Magistrate shall, on such request being made to him--

(a) take possession of such asset and documents relating thereto; and

(b) forward such asset and documents to the secured creditor."

It is therefore, clear that the secured creditor may request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset is situated. Sub-section (1) of Section 4 of the SARFAESI Act is an enabling provision for the secured creditor to be helped by the Chief Metropolitan Magistrate or the District Magistrate, as the case may be for securing possession of any secured asset. When once the expressions used in the said provision clearly bring out that it is the Chief Metropolitan Magistrate or the District Magistrate, who can be approached with a request, in writing, by the secured creditor to help him take possession of the secured asset, such power cannot be exercised by any other authority than the ones referred to supra.

In the instant case, the District Revenue Officer, who is incidentally the Additional District Magistrate, Warangal, has passed the impugned order on 21.09.2015 on the Application, in writing, made by the 2nd respondent secured creditor, namely the State Bank of Hyderabad. The said order passed by the District Revenue Officer is lacking any jurisdiction and hence, it is set aside. However, the request made by the 2nd respondent secured creditor, namely State Bank of Hyderabad be processed either by the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, in whose jurisdiction the said secured asset is situated.

The Writ Petition with this order stands allowed to the extent indicated supra. No costs.

Consequently, the miscellaneous applications, if any shall stand disposed of.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

12th April 2016

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