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

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

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.4429 OF 2016

DATED: 21-07-2016

Surepally Manahor. --- Petitioner.

And

The DCB Bank Limited,
9-1-125/3-1, Siddharth Plaza,
4th Floor, 44 Sarojini Devi Road,
Secunderabad and two others. --- Respondents.

Counsel for the petitioner : Mr. Cherukuri Ravi Kumar.

Counsel for the respondents
Nos.1 to 3. : Mr. Chetluru Sreenivas.

This Court made the following:

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

This writ petition is filed against respondent No.1, which is a private bank, for the following substantive relief:

> "For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, direction or order, more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st respondent bank wilfully stopped the balance loan amount release to me and did not permit me to pay instalments tried to rope me under SARFAESI Act and issued letter/possession notice, other proceedings are unlawful, liable to be set-aside and it is further consequentially prayed that this Hon'ble Court may be pleased to direct the respondents Nos.2 and 3 to see for logical and practical solution, avoid each and every case rope into SARFAESI Act and it is also consequently further prayed that the 1st respondent bank release balance Home loan sanctioned amount, permit the petitioner to pay instalments and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case."

Though a private bank is also amenable to the jurisdiction of this Court, under Article 226 of the Constitution of India, in order to challenge any action taken by the creditor or order passed by the Debts Recovery Tribunal, subject to the provisions of Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), no such measures have been taken either by respondent No.1 or an order was passed by the Debts Recovery Tribunal. Therefore, the writ petition is not maintainable against respondent No.1 for granting of the relief claimed therein.

The learned counsel for the petitioner submitted that as his client is placed in a piquant situation, facing severe financial hardship, his interests may be protected for a reasonable period to enable him to go before the Debts Recovery Tribunal, for appropriate relief.

The learned counsel for respondent No.1 submitted that possession of the property has already been taken and, that in view of the pendency of this writ petition, they have not proceeded with the sale. He has, however, fairly conceded that if reasonable amount is paid by the petitioner, respondent No.1 will not proceed for sale for a period, as may be specified by this Court.

In the light of above facts of the case and the submissions of learned counsel, the writ petition is disposed of by permitting the petitioner to pay a sum of Rs.3,00,000/- (Rupees three lakhs) within four weeks from today. On such payment, respondent No.1 may not take further coercive steps such as sale of the property for a period of two months. If the petitioner fails to secure any *interim* order from the competent forum, within the said period, respondent No.1 shall be free to deal with the property as per the provisions of the SARFAESI Act.

As a sequel to disposal of the writ petition, W.P.M.P. Nos.5667 and 5669 of 2016, filed for the *interim* relief, shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

Date: 21-07-2016.
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WRIT PETITION No.4429 OF 2016

(Order of the Division Bench delivered by
Hon'ble Sri Justice C.V. Nagarjuna Reddy)

Date. 21-07-2016

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