HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.9844 of 2016

Date:28.7.2016

Between:
Mohd. Salman,
S/o Late Lal Mahammed

.....Petitioner

And:
The Andhra Bank, Zonal Office,
Mahabubnagar, reptd by its Chief
General Manager and three others.

....Respondents

Counsel for the petitioner: Mr. M.Damodar Reddy

Counsel for the Respondents: None appeared

The Court made the following:

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

This Writ Petition is filed by the son of the deceased borrower feeling aggrieved by the purported inaction of respondent Nos.1 and 2 in considering his representation, dated 14.3.2016, made in reply to notice, dated 10.02.2016, issued by respondent No.2 under Seciton-13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act').

We have heard Mr. M.Damodar Reddy, the learned counsel for the petitioner and perused the record.

It is the pleaded case of the petitioner that his mother has availed a loan of Rs.10 lakhs from respondent No.1-bank and obtained insurance policy in respect of the said loan from respondent Nos.3 and 4; that respondent No.1 has deducted a sum of Rs.35,446.25 paise from the loan amount sanctioned in favour of the petitioner's mother and paid the same to respondent Nos.3 and 4 on 28.4.2015; and that the petitioner's mother died on 24.6.2015, upon which, respondent No.1 has illegally re-deposited the sum of Rs.35,446.25 paise into the loan account of the petitioner's mother on 13.8.2015. The petitioner further pleaded that instead of recovering the loan amount from respondent Nos.3 and 4, respondent No.2 has issued a notice to him under Section-13(2) of the SARFAESI Act on 10.02.2016 and that immediately, on 14.3.2016, he submitted detailed representations to respondent Nos.1 and 2 and the same were not being considered by the said respondents.

The sum and substance of the grievance of the petitioner is that as the loan has been properly insured by respondent Nos.3 and 4, the said respondents are liable to repay the loan amount on the death of the lonee i.e., the mother of the petitioner.

Inasmuch as no measures under Section-13(4) of the SARFAESI Act have been initiated so far by respondent Nos.1 and 2 and the representations of the petitioner stated to have been made to both the said respondents are not responded to by the said respondents, we feel it appropriate that respondent Nos.1 and 2 consider the representations, if received, from the petitioner.

Respondent Nos.1 and 2 are, therefore, directed to consider the representations of the petitioner before initiating further steps under Section-13(4) of the SARFAESI Act. On such consideration, a communication in writing shall be sent by the said respondents to the petitioner. If the petitioner feels aggrieved by such communication, he shall be free to avail appropriate legal remedies available to him in law.

Subject to the above observations and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.12434 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

28th July 2016
DR