

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

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.33613 of 2016

30.09.2016

Between:

K.Srinivasa Reddy

..Petitioner

And

Andhra Bank, Guntur and others

..Respondents

Counsel for the petitioner: Mr.P.Durga Prasad

Counsel for the respondents: --

The Court made the following:



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

This writ petition is filed for a *mandamus* to declare the action of respondent No.1 in seeking to proceed against the property of the petitioner, who is a guarantor, given in security for repayment of the loan advanced to respondent No.2 by respondent No.1.

2. On the petitioner's own showing, so far no measures under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act') have been initiated. Mr.P.Durga Prasad, learned counsel for the petitioner, however, has submitted that respondent No.1 has approached the executive magistrate for passing a possession order under Section 14 of the SARFAESI Act. Since no such order has been passed so far by the executive magistrate, the petitioner is not entitled to avail any legal remedy in view of the bar under Sub-Section (3A) of Section 13 of the SARFAESI Act. If and when respondent No.1 obtains such a possession order or initiates any other step under Section 13(4) of the SARFAESI Act, the petitioner shall be free to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

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

4. As a sequel to disposal of the writ petition, W.P.M.P.No.41499 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