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

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.26873 of 2016

10.08.2016

Between:

S.Raju Goud and another

..Petitioners

And

M/s.Vijaya Bank, Hyderabad

..Respondent

Counsel for the petitioners: Mr.J.C.Francis

Counsel for the respondent: Mr.E.Madan Mohan Rao,
for Mr.N.Manohar Reddy, learned standing counsel for Vijaya Bank

The Court made the following:

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

Apprehending sale of their properties, the petitioners, who are the guarantors for the loan obtained by the brother of petitioner No.1 and the son of petitioner No.2 from the respondent, filed this writ petition.

2. The only plea advanced by Mr.J.C.Francis, learned counsel for the petitioners, is that since his clients are only the guarantors, there is no justification for the respondent to bring their properties, which were given as security, to sale before selling the properties of the principal borrower, which were also mortgaged. This submission of the learned counsel runs contrary to Section 13(11) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'), under which, a secured creditor has been conferred a right to proceed against the guarantors or sell the pledged assets without first taking any of the measures specified in clauses (a) to (d) of Section 13(4) thereof in relation to the secured assets under the said Act. However, Mr.E.Madan Mohan Rao, learned counsel for the respondent, has fairly submitted that though his client may put all the properties to sale, if the sale of the assets of the principal borrower satisfies the debt, there would be no necessity for selling the properties of the guarantors.

3. In the light of the above facts and placing the submission of the learned counsel for the respondent on record, the Writ Petition is closed.

4. As a sequel to disposal of the writ petition, W.P.M.P.No.33259 of 2016 filed by the petitioners for interim relief shall stand disposed of as infructuous.

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C.V.NAGARJUNA REDDY, J

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G.SHYAM PRASAD, J

10th August, 2016
GHN