

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

WRIT PETITION NO.11902 OF 2016

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ORDER: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

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The petitioner herein claiming to be a tenant of the third respondent calls in question the correctness of the orders passed on 29.12.2012 in Crl.M.P.No.4776 of 2014 passed by the Chief Metropolitan Magistrate, Hyderabad, appointing an Advocate Commissioner to take physical possession of the secured asset. It is the claim of the petitioner herein that the secured asset has been leased out by the third respondent landlord by entering into a rental agreement on 10.06.2013. As of now, it is represented that he has been paying a monthly rental amount of Rs.9,680/- to the third respondent and he has paid the rent for the month of March on 02.03.2016. However, in the affidavit filed in support of the application moved under Subsection (1) of Section 14 of the SARFAESI Act, 2002, it is disclosed that the financial assistance has been availed by the third respondent in the month of March, 2013, i.e. prior to entering into rental agreement with the petitioner herein. Since the third respondent has committed default in recycling the debt, the debt account has become a non-performing asset and consequently, the second respondent-State Bank of India has taken steps for securitization of the debt. By virtue of the said arrangement, the demand notice issued under Subsection (2) of Section 13 has not produced the necessary response from the borrower. Hence, with a view to take possession of the secured asset, the second respondent has approached the Chief Metropolitan Magistrate, who upon being satisfied that the case calls for the measures provided for under Section (1) of Section 14 to be initiated, passed orders in Crl.M.P.No.4776 of 2014 on 29.12.2014 appointing a learned

Advocate as Commissioner to obtain possession of the secured asset and later on to deliver the same to the second respondent bank/secured creditor.

By this order, the warrant is ordered to be returned on 06.03.2015. Ultimately, by virtue of another order passed in Crl.M.P.No.4776 of 2014 on 27.03.2015, time is extended from time to time. It is the assertion of the learned counsel for the petitioner that the possession from the petitioner has not yet been obtained by the Advocate Commissioner and he is still continuing in possession of the secured asset.

Learned counsel for the petitioner Sri J. Ravinder would urge that, if the petitioner is granted time till the end of August, 2016, he would be vacating the possession of the secured asset and would deliver vacant possession thereof to the learned Advocate Commissioner appointed by the learned Chief Metropolitan Magistrate in Crl.M.P.No.4776 of 2014.

Conceding to the request of the petitioner, we grant time to the petitioner to deliver vacant possession latest by 31.08.2016. Till then, the monthly rent amount of Rs.9,680/- shall be deposited to the loan account of the third respondent, each month by the petitioner. If the petitioner commits any default in making any such payment, the second respondent bank would be at liberty to take possession of the secured asset even prior to 31.08.2016 without any reference to this Court.

Accordingly, the writ petition stands disposed of.

Consequently, miscellaneous applications pending if any shall also stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

DR. JUSTICE B. SIVA SANKARA RAO

Date:11.04.2016
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