

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

Writ Petition No.19768 of 2016

Date:07.9.2016

**Between:**

S.V.Patel & Company, Hyderabad,  
reptd by its Proprietor-  
Jayanti Lal Patel

..... Petitioner

**And.**

The Chief Metropolitan Magistrate,  
City Criminal Courts, Hyderabad  
and two others.

....Respondents

Counsel for the petitioner: Mr. A.M.Rao

Counsel for respondent No.2: Mr. P.V.Markandeyulu

The Court made the following:

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

This Writ Petition is filed for a *Mandamus* to set aside order, dated 10.12.2014, in CrI.M.P.No.4630 of 2014 on the file of respondent No.1.

When the case was heard on previous occasions, Mr. A.M.Rao, learned counsel for the petitioner, submitted that his client has no objection to remove all the goods lying in the shed situated on a part of the subject premises if two months' time is given to it. The case was, therefore, adjourned to enable the petitioner to file an affidavit. Accordingly, an affidavit sworn to on 07.9.2016, by Mr. Jayanti Lal Patel, Proprietor of the petitioner, has been filed, vide U.S.R.No.2464 of 2016.

In paragraphs-3 to 5 of the said affidavit, the dependent has averred as under:-

"I humbly submit that I have been carrying out business in the said premises bearing No.2-2-62/2, Baghamberpet, Hyderabad, since 1985 till 07.6.2016.

I humbly submit that the Advocate-Commissioner appointed vide orders of respondent No.1 in CrI.M.P.No.4630 of 2014, dated 10.12.2014, has locked and sealed the premises on 07.6.2016, thereby dispossessing me from the above said premises and handed over the keys to the personnel of respondent No.2. My material is still in the premises. Respondent No.2 has appointed its watchman.

I humbly submit that I require two months' time to wind up my business in the said premises and relocate."

In paragraph-15 of the affidavit, filed in support of the Writ Petition, the petitioner has, *inter alia*, stated as under:

"It is humbly submitted that as the Debts Recovery Tribunal has no jurisdiction in the matter and in view of the fact that a regular Presiding Officer is not posted, I am unable to get the matter advanced before the Debts Recovery Tribunal for withdrawing the appeal filed by me and in the said circumstances, I am constrained to file the present Writ Petition during the pendency of my Securitization Appeal. I hereby undertake to withdraw SA.No.38 of 2015 pending on the file of the Debts Recovery Tribunal, Hyderabad on 01.8.2016, to which date the appeal is listed."

Mr. P.V.Markandeyulu, learned counsel for respondent No.2, admitted the averments in paragraph-4 of the affidavit, reproduced above, and stated that the key has been handed over by the Advocate-Commissioner to his client. He has fairly agreed for returning the key to the petitioner to enable it to use the premises for a period of two months, subject to the vacant possession of the entire premises including the shed being handed over to respondent No.2 on expiry of two months, as undertaken by the petitioner in the affidavit referred to above.

In view of the consensus reached between the parties, the Writ Petition is disposed of in the following terms:

- (1) Respondent No.2 shall forthwith hand over the key to the petitioner on the latter approaching the former;
- (2) On the expiry of 60<sup>th</sup> day from today, the petitioner shall hand over vacant possession of the entire premises including the shed after removing the goods therefrom;
- (3) On such possession being handed over to respondent No.2, it shall be entitled to proceed further under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ; and
- (4) If the petitioner commits default in handing over physical possession, respondent No.2 shall be free to initiate contempt proceedings against the petitioner.

As a sequel to disposal of the Writ Petition, WPMP.No.24285 of 2016 filed by the petitioner for interim relief stands disposed of as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

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*JUSTICE G.SHYAM PRASAD*

*07<sup>th</sup> September 2016*

*DR*