

\$~32

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 924/2016, CM No.4032/2016 (for stay) & CM No.4033/2016
(for exemption).

RICH FIELD INDUSTRIES PVT LTD Petitioner
Through: Mr. Saurabh Kirpal with Ms. Renuka
Iyer & Mr. Manohar Malik, Advs.

versus

STATE BANK OF INDIA AND ANR Respondents
Through: Mr. Sanjiv Kakra & Mr. A.K. Singh,
Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **03.02.2016**

1. The petition impugns the order dated 1st January, 2016 of the District Officer / Additional District Magistrate, Gautam Budh Nagar, Uttar Pradesh, on an application of the respondent no.1 State Bank of India (SBI) under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.
2. The counsel for the respondent no.1 SBI appearing on advance notice contends that this Court would not have territorial jurisdiction.
3. The Registry has also listed the petition subject to the said objection.
4. After some hearing the counsel for the petitioner, though states that petitioner will take the appropriate remedy / approach the appropriate High Court, seeks interim protection.
5. The counsel for the respondent no.1 SBI on enquiry states that though the proceedings for taking over possession are underway but the same is likely to take about 10 days time.

6. In this view of the matter, there is no need for granting interim direction to the petitioner.

7. Another objection of the counsel for the respondent no.1 SBI may however be noted. It is stated that this writ petition rather than being filed as a Writ Petition (Civil) should have been filed as a Writ Petition (Criminal), being against the order of the Chief Metropolitan Magistrate (CMM). He also states that some writ petitions against the orders on applications under Section 14 of the SARFAESI Act are being listed before the Roster Bench (Single Criminal).

8. It *prima facie* appears that in accordance with the judgment of the Full Bench in ***C.S. Aggarwal Vs. State*** MANU/DE/2841/2011 only Writ Petition (Civil) would be maintainable against the order of CMM on an application under Section 14 of the SARFAESI Act. In any case, it is not deemed appropriate that there should be a discretion with the litigants to choose the Bench and accordingly file W.P.(Civil) or W.P.(Criminal). It is thus deemed appropriate that this order be placed before Hon'ble the Chief Justice on the Administrative side for consideration and appropriate directions.

RAJIV SAHAI ENDLAW, J

FEBRUARY 03, 2016

'gsr'..