

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No. 6625 of 2016

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

This writ petition was filed assailing the action of the PNB Housing Finance Limited in sealing Flat No.202, Jai Sai Castle, 2nd Floor, 16-1-27/A/1 and 16-1-27/A/1A to E in Ward No.16, Block No.1, Saidabad, Hyderabad. A consequential direction was sought to the PNB Housing Finance Limited to grant time for payment of the outstanding amount.

By interim order dated 02.03.2016, this Court directed the respondent company not to proceed further subject to the petitioner depositing a sum of Rs.1,00,000/- on or before 30.03.2016 and a further sum of Rs.2,00,000/- on or before 30.04.2016. This Court further directed that as soon as the first installment of Rs.1,00,000/- was deposited, the respondent Bank should treat the possession of the secured asset as having been taken over symbolically and deliver the possession back to the person from whom it had been taken subject to the condition that he would not alienate or create any third party interest including by way of lease or licence.

Sri K. Suresh Reddy, learned standing counsel for the respondent company, would inform us that the petitioner, having deposited the initial sum of Rs.1,00,000/- took possession of the secured asset in terms of the aforestated order, failed to pay the balance amount of Rs.2,00,000/- which was directed to be deposited on or before 30.04.2016.

This fact is not denied by Sri C. Subodh Reddy, learned counsel representing Sri O. Manohar Reddy, learned counsel for the petitioner.

This being the fact situation, we are of the opinion that this writ petition is an abuse of process as it was filed only to secure possession of the flat one way or the other and as soon as the petitioner succeeded in doing so by paying the initial sum of Rs.1,00,000/-, he conveniently ignored the rest of the interim order which required him to deposit Rs.2,00,000/- on or before 30.04.2016.

In terms of the law laid down by the Supreme Court in *M/s. Prestige Lights Limited vs State Bank of India*¹, failure to comply with the conditional interim order would entail fatal consequences ordinarily. In the present case, as we are also of the opinion that filing of this writ petition is nothing short of an abuse of process, the petitioner is not entitled to further indulgence.

The writ petition is accordingly dismissed on this short ground. Interim order dated 02.03.2016 shall stand vacated. Pending Miscellaneous Petitions shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

Date: 12.06.2017

JUSTICE GUDI SEVA SHYAM PRASAD

va

¹ (2007) 8 SCC 449