

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

WRIT PETITION No.11190 of 2016

ORDER: (Per Justice Sanjay Kumar)

This writ petition was filed assailing the order dated 22.12.2015 passed by the learned Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.3925 of 2015, in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

By order dated 31.03.2016, this Court directed that the warrant issued on 29.12.2015 pursuant to the impugned order dated 22.12.2015 passed by the learned Chief Metropolitan Magistrate, Hyderabad, should not be executed subject to the petitioner depositing a sum of Rs.70,00,000/- to the credit of his loan account with the Standard Chartered Bank. This conditional order has admittedly been complied with.

The issue raised in the writ petition is as to whether the Chief Metropolitan Magistrate, Hyderabad, had jurisdiction to entertain the application filed by the Standard Chartered Bank under Section 14 of the SARFAESI Act, as the property in relation to which it was filed is situated at Old Bowenpally Village. The claim of the petitioner is that this property would come under Kukatpally which is situated in Balanagar Mandal of Ranga Reddy District, whereas the Standard Chartered Bank claims that Old Bowenpally Village would come under Secunderabad and would therefore be within the jurisdiction of the Chief Metropolitan Magistrate, Hyderabad.

It is an admitted fact that the Standard Chartered Bank itself moved the Chief Metropolitan Magistrate, Ranga Reddy District, in the first instance but, having secured an order under Section 14 of the SARFAESI Act, it did not choose to proceed further, being of the opinion that the secured asset would fall within the jurisdiction of the Chief Metropolitan Magistrate, Hyderabad.

Sri Vedula Venkata Ramana, learned senior counsel appearing for Sri Sharad Sanghi, learned counsel for the petitioner, would fairly submit that this disputed question of fact as to where the secured asset would fall

may not be amenable to adjudication in a writ petition under Article 226 of the Constitution. Learned senior counsel would rely upon *Standard Chartered Bank v. V. Noble Kumar*¹ and submit that an application under Section 17 of the SARFAESI Act would be maintainable to look into the validity of the order passed by the learned Chief Metropolitan Magistrate, Hyderabad, under Section 14 of the SARFAESI Act, as the issue raised goes to the very root of jurisdiction.

In that view of the matter, the writ petition is disposed of permitting the petitioner to avail the statutory remedy under the SARFAESI Act before the jurisdictional Debts Recovery Tribunal. As the petitioner had the protection of an interim order after complying with the condition imposed by this Court, we are of the opinion that the said order may be continued for a period of four weeks to enable the petitioner to secure suitable interim relief from the jurisdictional Tribunal. Needless to state, all issues are left open and the Tribunal shall adjudicate the matter on its own merits and in accordance with law uninfluenced by the grant of an interim order in this writ petition.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

GUDI SEVA SHYAM PRASAD, J

20th July, 2017
IBL

¹ (2013) 9 SCC 620