THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.20624 of 2017

ORDER: (per SK,J)

The prayer of the petitioner in this case is as under:

> 'It is therefore prayed that this Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or orders or directions to declare the action of respondents 3 and 4 in trying to dispossess the petitioner from the petition schedule property i.e. Factory in the name of M/s. Superron Coir Products Private Limited in Survey No.138/1-3, Kotha Agraharam Post, Jaydyada Village, Nandigam Mandal, Srikakulam District, which is stood as guarantor the 5th respondent loan accounts prior to 22.12.2016 without following the due procedure under law under RBI guidelines without giving any show cause notice to the petitioner as highly illegal, arbitrary and contrary to law and statues violation of Article 14, 21, 300(A) of the Constitution of India and violation of Sections 12 & 13 of the SARFAESI Act 2002 along with its allied rules, Section 21 & 35-A of the Banking Regulation Act, 1949, Section 22 of the Recovery of Debts Due to the Banks and financial Institutions Act 1993 and consequently direct respondents 3 & 4 not to take any coercive steps against the petitioner industry i.e. Superron Coir Products Private Limited, Nandigam (MD), Srikakulam and pass such other order or orders as this Court deems fit and proper in the circumstances of the case.'

Sri V.Raghu, learned counsel for the Union Bank of India, would inform us that a demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'), was issued on 04.03.2016 to the borrowers and guarantors relating to the loan which has been classified as a Non Performing Asset.

The petitioner's name does not find mention therein, as he admittedly became a partner only on 22.12.2016. The petitioner does not even challenge the aforestated demand notice and in any event, such a challenge is not maintainable in the light of the law laid down by the

Supreme Court in Punjab National Bank v. Imperial Gift House[1] and Devi Ispat Limited v. State Bank of India[2].

Sri V.Raghu, learned counsel, would further inform us that aggrieved by the measures initiated under Section 13(4) of the SARFAESI Act, the borrowers approached the jurisdictional Debts Recovery Tribunal by way of S.A.No.215 of 2016 and secured interim orders.

That being so, this writ petition does not merit consideration as the statutory remedy has already been invoked by the aggrieved party.

The writ petition is dismissed on this short ground.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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JUSTICE SANJAY KUMAR

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JUSTICE GUDISEVA SHYAM PRASAD

Date:23.06.2017

GJ

[1] (2013) 14 SCC 622
[2] (2014) 5 SCC 762