

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

WRIT PETITION No.14718 of 2016

ORDER: (per SK,J)

This writ petition was filed assailing the possession notice dated 12.04.2016 issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'), by the Union Bank of India.

The grievance of the petitioner was that though he filed an application under Section 17 of the SARFAESI Act, which thereafter came to be numbered as S.A.No.106 of 2016 before the Debts Recovery Tribunal, Visakhapatnam, the same could not be taken up for want of Presiding Officer.

By order dated 27.04.2016, this Court directed the petitioner to deposit Rs.1.55 crore to the credit of the present writ petition within a time frame and on such deposit, the bank was directed not to take any coercive steps to evict the petitioner from the premises. Thereafter, on 02.06.2016, this Court took note of the fact that the petitioner had deposited Rs.1.55 crore with the Registrar (Judicial) and directed the same to be kept in a fixed deposit for a period of four months with the local branch of the Union Bank of India.

It is now stated by Sri B.Chandrasen Reddy, learned counsel for the petitioner, and Sri Maruthi Jadav, learned counsel representing Sri B.S.Prasad, learned counsel for the respondent bank, that the Debts Recovery Tribunal, Visakhapatnam, is at present functioning normally.

If that be so, we see no reason as to why this Court should undertake adjudication of the issues sought to be raised by the petitioner in this writ petition. Admittedly, the very same issues fall for consideration in the pending S.A. filed by the petitioner.

We therefore close the writ petition leaving it open to the petitioner to pursue the application filed by it under Section 17 of the SARFAESI Act before the jurisdictional Debts Recovery Tribunal. We make it clear that all issues are left open and granting of an interim order does not amount to venturing an opinion in favour of one party or the other.

The Registrar (Judicial) is directed to transfer the amount of Rs.1.55 crore lying in fixed deposit along with accrued interest to the credit of S.A.No.106 of 2016 on the file of the Debts Recovery Tribunal, Visakhapatnam. The said amount shall abide by the final result in the S.A. As the petitioner had the protection of the interim order pursuant to deposit of the amount, the said interim order shall continue to operate for a period of four weeks from today. It shall be open to the petitioner to move an appropriate application before the jurisdictional Debts Recovery Tribunal for interim protection pending disposal of S.A.No.106 of 2016. The Tribunal shall consider the matter, be it the interlocutory application or the main S.A., on merits in accordance with law without being influenced by any observations made by this Court, be it in the interim orders passed earlier or this order. The Tribunal shall continue to keep the transferred amount in a fixed deposit with the local branch of the Union Bank of India and the same shall be treated as lying to the credit of S.A.No.106 of 2016.

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

JUSTICE SANJAY KUMAR

JUSTICE GUDI SEVA SHYAM PRASAD

Date:22.06.2017

Note:

Furnish C.C. in three days.

(B/o)

GJ

