THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SMT. JUSTICE J. UMA DEVI

WRIT PETITION No.23421 of 2017

ORDER: **(per SK, J)**

The petitioner claims to be the tenant in the premises of the secured asset in relation to which Vijaya Bank, Hyderabad, being the secured creditor, initiated proceedings under Sections 13 and 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for brevity, 'the SARFAESI Act'). The grievance of the petitioner was that she was not made aware of the order passed by the learned Chief Metropolitan Magistrate, Cyderabad at L.B.Nagar, in Criminal Miscellaneous Petition No.426 of 2017 in exercise of power under Section 14 of the SARFAESI Act and was under threat of dispossession.

By order dated 17.07.2017, this Court took note of the fact that in the light of the law laid down by the Supreme Court in **Harshad Govardhan Sondagar v. International Assets Reconstruction Company Limited**[1]**,** a tenant could not be dispossessed without being put on notice when proceedings were initiated under Section 14 of the SARFAESI Act and accordingly granted interim stay of the petitioner's dispossession from the tenanted premises.

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[1] (2014) 6 SCC 1

WVMP.No.3109 of 2017 was filed by the Vijaya Bank to vacate the said order.

We are now informed that under the amended provisions of Section 17(4A) of the SARFAESI Act, it would be open to a tenant in possession of the secured asset to approach the jurisdictional Debts Recovery Tribunal seeking redressal of any grievance in connection with the proceedings initiated by the secured creditor under the SARFAESI Act in relation to the premises in which such person claims tenancy rights. We are therefore of the opinion that it would be appropriate for the petitioner to avail the statutory remedy before the jurisdictional Debts Recovery Tribunal. As the petitioner had the benefit of the interim stay granted by this Court as long back as on 17.07.2017 all through, the said order shall stand extended for a period of four weeks from today. In the interregnum, the petitioner shall file an application under Section 17(4A) of the SARFAESI Act before the jurisdictional Debts Recovery Tribunal. As the present writ petition was filed almost immediately after passing of the order by the Chief Metropolitan Magistrate, Cyberabad at L.B.Nagar, in exercise of power under Section 14 of the SARFAESI Act, the jurisdictional Debts Recovery Tribunal shall entertain the Securitisation Application filed by the petitioner

herein in terms of this order without reference to the law of limitation. All issues are left open.

The writ petition is disposed of accordingly.

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

SANJAY KUMAR, J

7th NOVEMBER, 2017.

SMT. J. UMA DEVI, J

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