THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.32331 of 2015

ORDER: (per Justice Sanjay Kumar)

The petitioner challenged the notice dated 20.07.2015 issued by the Indian Overseas Bank requiring her and her children to vacate the secured asset, being the house property situated at Christian Colony, Warangal, within a time frame.

Perusal of the impugned notice reflects that though it does not state so, it purports to be a possession notice issued under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules of 2002').

By order dated 05.10.2015, this Court directed the respondent bank not to take any further steps for eviction of the petitioner from the subject house property on the condition that she would deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) within eight weeks from that day. Further time was granted to the petitioner to comply with this condition by order dated 15.12.2015 upon her extension petition. She was granted four weeks from that day to comply with the condition.

Sri I.Radhakrishna Murthy, learned counsel representing Sri K.Suryanarayana, learned counsel for the respondent bank, would inform this Court that the petitioner did not comply with the aforestated condition till date.

Sri S.Surender Reddy, learned counsel for the petitioner, does not dispute this fact.

As the respondent bank is still at the stage of the possession notice under Rule 8(1) of the Rules of 2002, the complaint of the petitioner that it is proceeding without following the procedure contemplated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), does not hold water. It is an admitted fact that a demand notice under Section 13(2) of the SARFAESI Act has already been issued to the petitioner in accordance with the due procedure and a possession notice was then issued. In the event the petitioner does not handover the possession voluntarily in response thereto, the respondent bank is bound to follow the procedure prescribed under the SARFAESI Act and the Rules of 2002.

Having secured protection from this Court as long back as in October, 2015, subject to the condition that she would deposit a sum of Rs.2,00,000/-, the petitioner has not chosen to do so. As the petitioner failed to comply with the conditional interim order, her lack of *bonafides* is patent. The respondent bank is yet to take any concrete measures under law for securing the possession of the subject house property. Interdicting it from doing so at this stage is therefore not warranted. All the more so, as the petitioner did not even comply with the condition imposed by this Court while granting interim protection.

The writ petition is therefore devoid of merit and is accordingly dismissed.

Interim order dated 05.10.2015 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 30.10.2017
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