

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

WRIT PETITION No.39946 of 2016

ORDER: (per SK,J)

Sri Shaik Mohammed Ismail, learned counsel for the petitioner, would state that in the light of the Gazette notification dated 05.07.2002, relating to appointment of Assistant Sessions Judges as Chief Judicial Magistrates, one of the grounds in this writ petition no longer survives for consideration. He would however submit that the issue as to whether the Canara Bank, the first respondent herein, had invoked Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'), without first issuing a possession notice under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002, requires examination.

We are however of the opinion that this issue also stands settled in the light of the judgment rendered by the Supreme Court in Standard Chartered Bank v. Noble Kumar¹. Therein the Supreme Court held that three methods are available to the secured creditor to take possession of the secured asset under the SARFAESI Act. One such method is by directly approaching the authority concerned under Section 14 of the SARFAESI Act.

That being so, the writ petition does not survive for consideration on merits and is accordingly dismissed.

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

JUSTICE SANJAY KUMAR

JUSTICE GUDI SEVA SHYAM PRASAD

Date:22.06.2017

GJ

¹(2013) 9 SCC 620