

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

WRIT PETITION No.26948 of 2016

ORDER: (per SK,J)

This writ petition was filed assailing the possession notice dated 15.03.2016 issued by the State Bank of Hyderabad under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules of 2002'), and the consequential sale-cum-e-auction notice dated 08.07.2016 published by it in newspapers on 09.07.2016. The main ground of challenge was that the prescribed procedure was not followed in as much as demand notices under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') were not sent to the petitioners by conventional means but straightaway, recourse was taken to publication of the said notices in the newspapers. Another ground of challenge was that despite rescheduling the repayment of the loan on 29.01.2015, the respondent bank failed to give effect to it and proceeded further in the matter.

By order dated 13.06.2017, Sri E.Madan Mohan Rao, learned counsel, was asked to produce copies of the returned envelopes whereby the demand notices issued under Section 13(2) of the SARFAESI Act were sent to the petitioners. Today, the envelopes addressed by the State Bank of Hyderabad under registered post with acknowledgment due to the petitioners are produced and perusal thereof reflects that the same were returned by the postal authorities with the endorsement 'addressee left India'. It was owing to this failure of service by conventional means

that the respondent bank took recourse to publication of the notices in newspapers as provided under Rule 3 of the Rules of 2002.

The counter filed by the respondent bank also indicates that the revised repayment schedule pursuant to the proceedings dated 29.01.2015 was given effect to but the petitioners failed to repay their loan in terms thereof. The total amount paid by the petitioners since the date of disbursal of the loan in the year 2009 was only Rs.5,32,489/- which gave rise to the SARFAESI proceedings.

In the light of the aforestated facts, we find no merit in this writ petition.

The writ petition is accordingly dismissed. Interim order dated 10.08.2016 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



JUSTICE SANJAY KUMAR

JUSTICE GUDI SEVA SHYAM PRASAD

Date:06.07.2017

GJ