

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION NO.1442 OF 2017
(Per Sri Justice Sanjay Kumar)

O R D E R

This writ petition is sought to be maintained against the demand notice dated 02.11.2016 published by the State Bank of India in Sakshi Telugu newspaper on 25.11.2016. By order dated 11.01.2017, this Court granted interim stay of issuance of an auction notice subject to the condition that the petitioner deposits a sum of Rs.1,00,000/- within four weeks from that day. The bank was also directed to inform the amount payable to the petitioner within four weeks to enable him to do the needful.

The petitioner, appearing as a party-in-person, would contend that the bank is naming an exorbitant amount as still repayable and that he is willing to repay the debt due without the expenses which the bank wishes to saddle upon him.

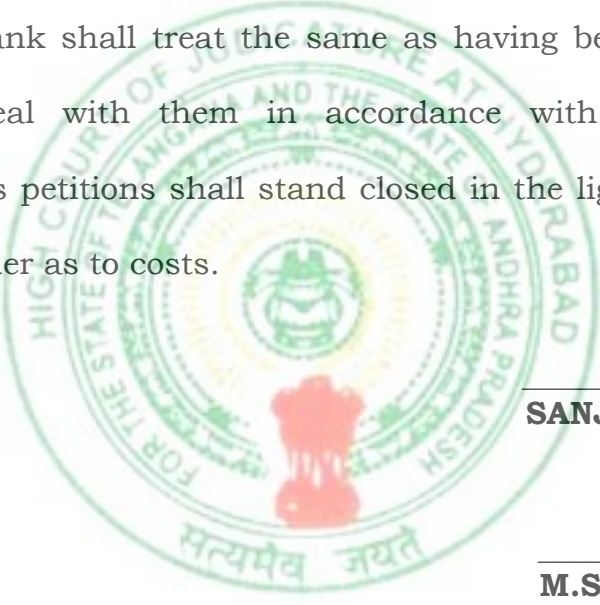
It is relevant to note that a writ petition is not maintainable against a demand notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'SARFAESI Act') (***DEVI ISPAT LIMITED V/s. STATE BANK OF INDIA***¹).

The demand notice published in the newspaper reflects that the conventional method of service failed and the bank therefore took recourse to Rule 3 of the Security Interest (Enforcement) Rules, 2002 to publish the same in newspapers. Publication of the said notice therefore cannot be said to be illegal.

¹ (2014) 5 SCC 762

It is however relevant to note that the petitioner failed to submit his objections to the demand notice, under Section 13(3A) of SARFAESI Act.

As a right is statutorily conferred upon the petitioner in this regard and as he seems to have failed to make use of the same owing to ignorance and filed this writ petition directly before this Court, the writ petition is disposed of granting liberty to the petitioner to file his objections under Section 13(3A) of SARFAESI Act within one week from the date of receipt of a copy of this order. If the petitioner raises such objections within the time stipulated above, the bank shall treat the same as having been filed within time and deal with them in accordance with law. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR, J

M.S.K.JAISWAL, J

5th JUNE, 2017

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