THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 8095 of 2016

ORDER: (*per Hon'ble Sri Justice Sanjay Kumar*)

This writ petition was filed assailing the action of the State Bank of India in taking possession of the petitioner's property which was offered as a security interest for the housing loan availed by him. The said loan having fallen in arrears, the Bank initiated action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, the Act of 2002). In exercise of power under Section 14 thereof, the learned Chief Judicial Magistrate, Mahabubnagar District, by order dated 14.09.2015 directed delivery of possession of the secured asset to the Bank in Crl.M.P.No.31 of 2015. The petitioner approached this Court at that stage.

By order dated 16.03.2016, this Court took note of the fact that the outstanding liability of the petitioner stood at Rs.1,89,443/- as on 05.10.2015 and directed the Bank to remove the seals applied to the lock of the premises and restore possession to him subject to his paying a sum of Rs.25,000/- on or before 30.03.2016. The petitioner was also directed to continue to make further deposits of not less than Rs.25,000/- every month.

Sri M. Srikanth Reddy, learned counsel for the State Bank of India, would inform this Court that pursuant to the aforestated order, the Bank restored possession of the said premises to the petitioner upon his paying the initial sum of Rs.25,000/- before 13.03.2016. He would further state that as regards the second limb of the order, the petitioner paid Rs.25,000/- only upto September, 2016, and failed to make any further deposit thereafter. He would further state that as per the statement of account, the petitioner's outstanding dues as on date stand at Rs.72,851.50 ps. apart from interest, costs and incidental expenses.

Sri Nagarjuna Reddy Burri, learned counsel for the petitioner, would state that given sufficient time, the petitioner would discharge the entire dues as aforestated.

As the respondent Bank is yet to initiate further steps under the Act of 2002, we are of the opinion that sufficient time may be given to the petitioner to prove his *bona fides*. It is however made clear that the respondent Bank shall continue to remain in symbolic possession of the secured premises belonging to the petitioner pursuant to the order dated 14.09.2015 passed by the learned Chief Judicial Magistrate, Mahabubnagar, in Crl.M.P.No.31 of 2015 under Section 14 of the Act of 2002. In the event the petitioner fails to comply with the directions as set out hereunder, the Bank shall be at liberty to proceed in the matter from that stage in accordance with law.

The petitioner shall deposit the entire dues outstanding in his loan account, including the accrued interest thereon along with the costs and incidental expenses, within two weeks from the date of receipt of a copy of this order. In the event the petitioner fails to discharge his duties as aforestated, the Bank is granted liberty to take further steps in the matter in accordance with law. Restoration of the possession shall abide by this order and the Bank is given liberty to reclaim possession in the event the petitioner fails to make the deposit in terms of this order.

The writ petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date: 27.06.2017

JUSTICE GUDISEVA SHYAM PRASAD

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