

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Petition No.26145 of 2017

ORDER: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

The relief sought for in this writ petition is to declare the action of the respondent-bank in issuing vacate notice, through an Advocate Commissioner to the tenant of the first petitioner without any date, as illegal and arbitrary.

The impugned notice has been issued by the Advocate Commissioner on the basis of an order passed by the Chief Metropolitan Magistrate, Cyberabad in CrI.M.P.No.395 of 2017 appointing an Advocate Commissioner to take physical possession of the subject property, and to hand over the same to the respondent-bank. The order, a copy of which is placed for our perusal, required the Advocate Commissioner to execute the warrant on or before 25.08.2017. As the Advocate Commissioner issued the notice to the first petitioner's tenant, to vacate the premises, pursuant to the order passed by the Chief Metropolitan Magistrate, Cyberabad in CrI.M.P.No.395 of 2017, we see no reason to interfere with the order impugned in the writ petition.

Sri V.Venkat Kumar, learned counsel for the petitioners, seeks liberty to question the proceedings of the Chief Metropolitan Magistrate, Cyberabad in CrI.M.P.No.395 of 2017, issued under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act'), in appropriate legal proceedings. The petitioners' remedy is to question the Section 13(4) proceedings, issued prior to the proceedings initiated under Section 14 of the Act, under Section 17 of the SARFAESI Act before the Debt Recovery Tribunal.

Leaving it open to the petitioners to approach the Debt Recovery Tribunal, the Writ Petition is dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

07th August, 2017
JSU



THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS JUSTICE J.UMA DEVI



Writ Petition No.26145 of 2017

Date: 07.08.2017

JSU