THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J.UMA DEVI

WRIT PETITION NO.35225 of 2016

ORDER: (per SK,J)

The prayer of the petitioner in this case reads as under:

> 'For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly in the matter of Writ of Mandamus, declaring the action of the respondents by issuing 13(2) & 13(4) notices under SARFAESI Act including Rule 8(i) Possession Notice dated 14.10.2016 by taking over of the possession of the mortgaged property mentioned in Rule 8(i) Notice contrary to the procedure as contemplated under the law in violation of law and procedure and curtailing the principles of natural justice by taking extraordinary powers is illegal and arbitrary and against the principles of natural justice and also violative of Articles 14, 19, 21 and 300-A of Constitution of India and consequently set aside the said notices and to pass such other order or orders that the Hon'ble Court may deem fit and proper in the interest of justice.'

By order dated 21.10.2016, this Court granted interim stay of all further proceedings. However, perusal of the said order reflects that this Court was led to believe that the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, was issued on 13.06.2016, though a payment was said to have been made on 04.06.2016.

Sri G.Gopala Krishna, learned counsel representing Sri A.Krishnam Raju, learned counsel for the State Bank of Hyderabad (which is now merged in the State Bank of India), would submit that there was no payment made by the petitioner on 04.06.2016 and this Court was misled to believe so by placing a copy of the account statement, wherein an interest credit was shown on 04.06.2016. Learned counsel would further state that after the loan account is classified as a non-performing asset, the interest amount would not be added as separate interest account would be maintained and that is the reason why it was shown as a credit.

Though Sri R.Siva Sai Swaroop, learned counsel for the petitioner, would inform this Court that the bank called upon his client by letter dated 28.11.2017 to come forward with a concrete strategy/plan for resolution of the account within 15 days, we are of opinion that this writ petition does not deserve to be entertained as it is clear from the aforestated facts that the petitioner relied upon a credit entry in the account knowing fully well that no payment was made by her on 04.06.2016.

The writ petition is therefore dismissed on this short ground. This order shall however not preclude the parties from negotiating a settlement pursuant to the bank's letter dated 28.11.2017.

Interim order dated 21.10.2016 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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SANJAY KUMAR,J

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J.UMA DEVI,J

Date:06.12.2017

GJ