

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

WRIT PETITION No. 4481 of 2017

ORDER: (per SK, J)

This writ petition was filed assailing the action of the Union Bank of India, YSR Kadapa, the 3rd respondent, in taking possession of the factory land in Survey Nos.39/3, 39/9 and 39/10 admeasuring Ac.6-86 cents, including plant and machinery, situated at Gotur village, Vallur mandal, YSR Kadapa District, on the ground that it was contrary to the order dated 04.03.2016 passed by the Debts Recovery Tribunal (DRT), Hyderabad, in S.A.No.56 of 2016.

2. Perusal of the order dated 04.03.2016 reflects that the Tribunal directed the Bank to give two weeks prior notice before taking action against the applicants so as to enable them to take appropriate steps in the meantime.

3. This order was an *ex parte* order and it was therefore for the petitioners to communicate the same to the Bank. However, no material is placed before this Court in proof of the aforestated order having been immediately dispatched to the Bank. On the other hand, the documents filed along with the reply affidavit of the petitioners demonstrate that the said order was communicated only in January, 2017. In the meanwhile, it appears that the Bank invoked Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the SARFAESI Act), and secured an order from the District Magistrate, YSR Kadapa District. Pursuant thereto, the Tahsildar, Vallur mandal, addressed a letter dated 12.01.2017 to the Bank, marking

copies thereof to the petitioners, referring to the order dated 05.08.2016 passed by the District Magistrate, YSR Kadapa District, in exercise of power under Section 14 of the SARFAESI Act, 2002, and informing the Bank that the possession of the secured asset would be handed over on 28.01.2017. The photocopy of the envelope addressed to the petitioners wherein the aforestated notice of the Tahsildar shows that it was served upon the petitioners only on 23.01.2017. The envelope also bears out the fact that despite service of notice being attempted on 18.01.2017, 19.01.2017 and 20.01.2017, it could not be done as the door was locked or the petitioners were not available.

4. In the light of the aforestated facts, it is clear that the petitioners have none other than themselves to blame for the Bank failing to comply with the order dated 04.03.2016 passed by the DRT in S.A.No.56 of 2016. In the absence of evidence being produced before this Court of the said order having been served on the Bank prior to it initiating steps against the petitioners, this Court cannot hold such steps to be illegal or contrary to the directions of the Tribunal. As no such material is placed before us, we find no illegality in the action of the Bank in taking further steps as aforestated.

5. The writ petition is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

GUDI SEVA SHYAM PRASAD, J

13th June, 2017
KSM

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



WRIT PETITION No. 4481 of 2017

13th June, 2017

KSM