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

WRIT PETITION No. 16392 of 2017

ORDER: (per SK, J)

This writ petition was filed assailing the order dated 28.03.2017 passed by the learned Chief Metropolitan Magistrate, Ranga Reddy District, in Crl.MP.No.319 of 2017. This order was passed in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

2. Sri P.S. Rajasekhar, learned counsel for the petitioners, would contend that after the amendment of Section 14 of the SARFAESI Act under Act 1 of 2013 with effect from 15.01.2013, it is incumbent upon the Secured Creditor to file an affidavit in support of an application under Section 14 of the SARFAESI Act by making declaration as regards the various aspects mentioned thereunder. Learned counsel would assert that insofar as Clauses 1, 2 and 9 stipulated under the first proviso to Section 14 of the SARFAESI Act are concerned, the affidavit filed by the Standard Chartered Bank, the respondent herein, falls woefully short as no details are forthcoming as regards these aspects. He would rely upon the Division Bench judgment dated 28.03.2017 in **T.V.R. Investments v. M/s IDBI Bank**[1] in this regard.

3. Perusal of the aforestated judgment reflects that the Division Bench opined in clear terms to the effect that failure to furnish information as stipulated under the first proviso to Section 14(1) would entail invalidation of any order passed thereon by the Magistrate concerned in exercise of power under Section 14 of the SARFAESI Act.

[1] W.P.No.9516 of 2017 dt. 28.03.2017

4. Perusal of the affidavit filed by the respondent Bank before the learned Chief Metropolitan Magistrate, Ranga Reddy District, L.B. Nagar, reflects that the Bank failed to disclose therein as to what was its total claim as on the date of filing of the application. Further, though the Bank indicated the properties over which a security interest had been created, there was no declaration that its claim was within the limitation period. There was also no declaration that the Bank has complied with the provisions of the SARFAESI Act and the Rules made thereunder. Unless the Bank makes the requisite declarations as stipulated in the provision, it would not be possible for the Magistrate concerned to satisfy himself as to the contents of such affidavit before passing an order. As the affidavit filed by the respondent Bank did not meet the required standard, we have no hesitation in holding that the order passed by the learned Chief Metropolitan Magistrate, basing on such an incomplete affidavit, does not embody proper satisfaction whereby the direction issued in consequence thereof can be sustained.

5. The writ petition is accordingly allowed setting aside the order dated 28.03.2017 passed by the learned Chief Metropolitan Magistrate, Ranga Reddy District, in Crl.MP.No.319 of 2017. This order shall however not preclude the respondent Bank from initiating measures afresh in accordance with the procedure laid down by law. Pending miscellaneous petitions, if any, shall stand closed. No costs.

SANJAY KUMAR, J

GUDISEVA SHYAM PRASAD, J

06th July, 2017

KSM

THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

<u>WRIT PETITION No. 16392 of 2017</u>

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