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

WRIT PETITION NO.5999 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, this Hon'ble Court may be pleased to issue an appropriate Writ or Order or direction, more particularly, one in the nature of Writ of Mandamus, declaring the proceedings initiated by the 1st Respondent Bank Under Section 14 of Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as arbitrary, illegal & un-sustainable and consequently, declare the order passed by the Hon'ble Chief Metropolitan Magistrate in CRLMP No. 2978/2015 dt. 22.01.2016, as non executable against the petitioner, non-est, void and pass such other order or orders, as this Hon'ble Court deems fit and proper in the circumstance of the case.'

Sri C.Naresh Reddy, learned counsel for the petitioner, fairly concedes that as no order was granted by this Court staying the operation of the order dated 22.01.2016 passed by the Chief Metropolitan Magistrate, Hyderabad, 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'), possession of the secured asset was also taken.

We find that when the Indian Overseas Bank, the first respondent herein, issued e-auction sale notice dated 19.03.2016, a miscellaneous petition was moved in this writ petition seeking stay of the auction sale proposed thereunder and by order dated 29.04.2016, this Court granted interim stay. It may be noted that the prayer in this miscellaneous petition went beyond the scope of the writ petition as there was no challenge to the e-auction sale notice dated 19.03.2016 in the writ petition.

In any event, as this Court granted interim stay of the auction sale proposed to be held under the e-auction sale notice dated 19.03.2016, the same has worked itself out and it would not be open to the first respondent to fallback upon the said e-auction notice and conduct a fresh auction sale. The first respondent bank would necessarily have to follow the procedure prescribed under the SARFAESI Act to bring the secured asset to sale.

On the aforestated analysis, neither the main prayer in the writ petition nor the interim prayer survives for consideration.

The writ petition is accordingly closed leaving all issues open. The petitioner is at liberty to seek appropriate remedies in accordance with law as and when a fresh cause of action arises.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

SANJAY KUMAR,J

J.UMA DEVI ,J

Date:06.11.2017

GJ