

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

W.P.NO.31727 OF 2016

O R D E R (Per the Hon'ble Sri Justice Sanjay Kumar)

This writ petition was filed aggrieved by the proceedings initiated by the Andhra Bank under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act').

By order dated 20.09.2016, this Court restrained the Bank from taking coercive steps such as physical dispossession of the petitioners from item 'N' of the scheduled properties shown in the demand notice dated 01.02.2016 issued by the Andhra Bank under Section 13(2) of the SARFAESI Act and auction sale of item 'M' of the scheduled properties in the demand notice pending further orders.

Perusal of the affidavit filed in support of the writ petition demonstrates that the only reason cited for the petitioners approaching this Court instead of availing the statutory remedy provided to them under the SARFAESI Act was that the Debts Recovery Tribunal at Visakhapatnam

was not functioning at that point of time and the threat of dispossession by the Bank was imminent.

Sri V.Raghu, learned counsel for the Andhra Bank, would inform this Court that the Debts Recovery Tribunal at Visakhapatnam is now functioning regularly and submit that the petitioners should be relegated to the statutory remedy available to them.

We find merit in this submission as the petitioners seek to raise various factual issues before this Court which would not be amenable to adjudication under Article 226 of the Constitution.

The writ petition is accordingly dismissed leaving it open to the petitioners to avail appropriate remedies in accordance with law before the jurisdictional Debts Recovery Tribunal.

Needless to state, the period of limitation for availing the statutory remedy would be reckoned by giving the petitioners the benefit of Section 14 of the Limitation Act, 1963. As and when the petitioners invoke the statutory remedy, the same shall be considered on its own merits and in accordance with law, uninfluenced by the dismissal of this writ petition or the grant of interim orders during its pendency.

As the petitioners had the benefit of the interim protection granted in this writ petition, the same shall continue to operate for a period of four weeks from today. It is open to the petitioners to seek interim relief before the jurisdictional Debts Recovery Tribunal during this period.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.



SANJAY KUMAR,J

GUDISEVA SHYAM PRASAD,J

DATE:27—07—2017

AVS