

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

WRIT PETITION No. 6521 of 2016

ORDER: (*per Hon'ble Sri Justice Sanjay Kumar*)

This writ petition was filed on 26.02.2016 assailing the action of the State Bank of Hyderabad in not shifting the hypothecated machinery belonging to M/s. RSR Jewelleries Private Limited, the fourth respondent, which was taken into symbolic custody by the Bank under Rule 4 of the Security Interest (Enforcement) Rules, 2002, from the premises at Domalguda, Hyderabad, belonging to the petitioners, wherein the fourth respondent was a tenant. The petitioners also prayed for a direction to the Bank to pay charges w.e.f. 01.10.2013 for the use and occupation of the said premises as per the agreement between the petitioners and the fourth respondent. A further direction was sought to the Bank to shift the machinery from the said premises forthwith.

By order dated 03.03.2016, this Court directed the Bank to take a decision whether it wished to hire the premises where the secured movable property viz., machinery belonging to the fourth respondent, was lying by entering into an appropriate arrangement with the petitioners or in the alternative to remove the same by preparing an appropriate inventory thereof and thereafter deliver vacant possession of the premises without causing any damage either to the building or the furniture and fixtures lying therein. A decision in this regard was directed to be taken within four weeks from the date of communication of the said interim order.

We are now informed that pursuant to the aforestated order, the physical possession of the secured machinery was taken and vacant

possession of the premises was delivered to the petitioners on 02.07.2016. It appears that no arrangement was entered into by the Bank with the petitioners for this period.

Sri Hari Sreedhar, learned counsel for the petitioners, would state that the petitioners were effectively denied the right of enjoyment of the said premises which was not offered as security to the Bank owing to the delay on the part of the Bank in removing the secured machinery therefrom. He would therefore assert that the Bank is at liability to recompense the petitioners for use and occupation of the premises.

We are of the opinion that this issue does not fall for adjudication in this writ petition as the prayer of the petitioners was mainly directed at securing the vacant possession of the premises and as they have now succeeded in that regard pursuant to the interim order granted by this Court, we close the writ petition leaving it open to the petitioners to take recourse to appropriate civil remedies in accordance with law with regard to any other cause of action, including their claim for damages, against the Bank.

Pending Miscellaneous Petitions shall also stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

Date: 09.06.2017

JUSTICE GUDI SEVA SHYAM PRASAD

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