

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

WRIT PETITION No.36486 of 2017

ORDER: (per Justice Sanjay Kumar)

The grievance of the petitioner, the Vijaya Bank, Hyderabad, is that despite it making an application to the Collector-cum-District Magistrate, Siddipet, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), the said authority is not taking steps and passing appropriate orders on the said application.

Learned Government Pleader for Revenue, having obtained instructions, would inform this Court that the District Collector was made aware of the fact that a protected tenant was in possession of the property and, therefore, the matter is still pending consideration on his file.

Be it noted that in the light of the law laid down by the Supreme Court in Harshad Govardhan Sondagar v. International Assets Reconstruction Company Limited¹ and Vishal N. Kalsaria v. Bank of India² supplemented by case law of this Court basing on the aforestated judgments, the Collector-cum-District Magistrate concerned would have to examine the lawfulness of the tenancy, if any, claimed by the person in possession of the secured asset and take steps accordingly. It is however not open to the Collector-cum-District Magistrate concerned to sit over such a case indefinitely and keep it pending merely because a person came forward claiming tenancy rights in the secured asset in

¹ (2014) 6 SCC 1

² (2016) 3 SCC 762

relation to which an application under Section 14 of the SARFEASI Act is made before him by the secured creditor.

In that view of the matter, the writ petition is disposed of directing the Collector-cum-District Magistrate, Siddipet, to consider the application made by the petitioner under Section 14 of the SARFAESI Act in accordance with law and pass appropriate orders thereon expeditiously and, in any event, not later than six weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 06.11.2017
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