THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.38502 of 2017

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

The prayer of the petitioner in this case reads as under:

> "Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of respondents in issuing the Possession Notice dated 04.10.2017 under Section 13(4) r/w Rules 8 (1) & (2) of the Security Interest (Enforcement) Rules 2002 without following the mandatory provisions of Rule 8(2) of the security Interest (Enforcement) Rules,2002 and without considering the oral representation as being arbitrary, illegal and unconstitutional and contrary to the provisions of the SARFAESI Act, 2002 and consequently direct the respondents to consider the representations 06.11.2017 & 08.11.2017 by regularising the loan account and pass such other order or orders this Hon'ble Court may deem fit and proper in the circumstances of the case set aside the same."

The petitioner's allegation was that the possession notice issued under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002, was not published in the newspapers.

The State Bank of India filed a counter affidavit through its Chief Manager, Kadiri Branch, giving the details of the publication of the said possession notice in the newspapers in terms of the relevant Rules.

Sri Lakshmikanth Reddy Desai, learned counsel for the petitioner, would allege that though his client made some payment pursuant to the demand notice dated 05.12.2016 issued by the Bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), the same was not taken into account in the possession notice dated 04.10.2017.

However, perusal of the said possession notice reflects that the amount mentioned in the demand notice was reiterated in it with reference to the date of the demand notice. Therefore, there is no lapse on the part of the Bank in this regard.

Learned counsel would concede that there are no other irregularities in the measures initiated by the Bank under the provisions of the SARFAESI Act.

That being so, we do not find any merit in this writ petition which is accordingly dismissed.

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

SANJAY KUMAR,J

Date: 11.12.2017

KONGARA VIJAYA LAKSHMI,J

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