

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

WRIT PETITION No.37915 of 2017

ORDER: (per Justice Sanjay Kumar)

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

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this 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 the respondent in dispossessing and taking possession of the Petitioner's company property in Plot bearing No.53, hatched Red boundaries in the plan admeasuring 400 sq.yds or 334.4 sq.mts situated at Thokatta Village within the limits of Cantonment Board of Secunderabad vide Sale Deed No.603/1996, dated 06.05.1996 registered at office of the Sub Registrar, Bowenpally and boundaries by:- North:30 feet Road, South: Plot No.52, East: 40' wide Road, West: Plot No.76 pursuant to the Order in CrI.MP.No.3758 of 2017 dated 04.10.2017 on the file of Chief Metropolitan Magistrate at Hyderabad, is illegal, arbitrary, violation of principles of natural justice and violation of fundamental rights guaranteed under the Constitution of India and contrary to the provisions of SARFAESI Act and set aside the same and consequently direct the respondents not to dispossess/interfere with the peaceful possession of the petitioner's property from the above said premises and pass such other order or orders as this Hon'ble High Court deemed it fit and proper in the circumstances of the case.”

Sri Nageshwar Rao Pujari, learned counsel for the petitioner, would submit that in terms of the offer for a one time settlement made by the bank under its letter dated 29.09.2017, his client is willing to pay the balance sum due if granted some more time.

However, perusal of the said letter reflects that the settlement was to be effected by the petitioner on or before 20.10.2017. Admittedly, the petitioner did not do so. Even before this Court, the matter was adjourned twice.

Sri Nageshwar Rao Pujari, learned counsel, fairly concedes that the payment has not been made in terms of the aforestated letter even as on date.

As the petitioner failed to take advantage of the offer made by the bank for a one time settlement and its learned counsel is unable to demonstrate any illegality in the measures initiated by the respondent bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') and, more particularly, the order dated 04.10.2017 passed by the learned Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.3758 of 2017 under Section 14 of the SARFAESI Act, we find no merit in this case.

The writ petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 08.12.2017
IBL