

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

WRIT PETITION No. 16297 OF 2016

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

This writ petition was filed assailing the possession notice dated 13.04.2016 issued by the Asset Reconstruction Company (India) Limited (ARCIL) under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 in relation to the secured asset belonging to the petitioner.

The grievance of the petitioner was that without considering his representation dated 28.01.2016 submitted in response to the demand notice issued by ARCIL and in terms of order dated 03.03.2016 passed by this Court in W.P.No.6590 of 2016, the aforestated demand notice was issued.

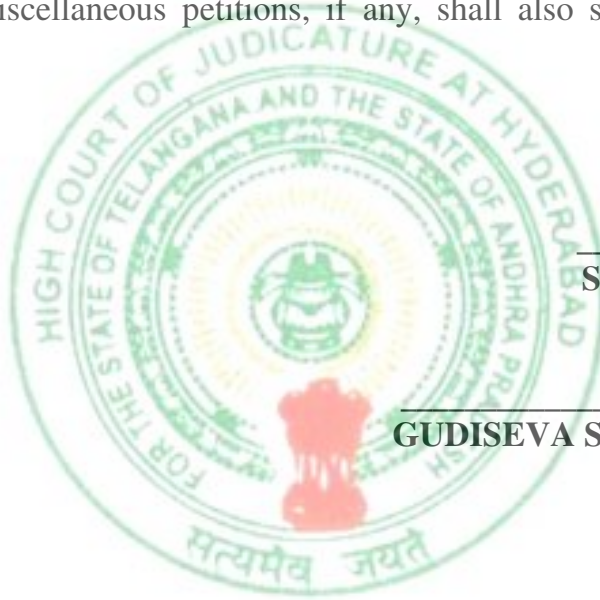
Perusal of the record reflects that pursuant to the demand notice dated 14.12.2015 issued by ARCIL under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), the petitioner submitted his representation dated 28.01.2016. On due consideration of the same, ARCIL rejected the said representation under letter dated 09.02.2016. Suppressing the same, it appears that the petitioner filed W.P.No.6590 of 2016 before this Court and the same was disposed of directing the State Bank of India to deal with the representation made by the petitioner and communicate the decision thereon within a time frame.

It appears that the financial asset of the State Bank of India relating to the petitioner was assigned to ARCIL and the proceedings under the SARFAESI Act were thereafter initiated by ARCIL alone and no demand notice was issued by the State Bank of India under Section 13(2) of the SARFAESI Act.

However, in due compliance with the order passed by this Court, the State Bank of India also considered the representation of the petitioner and issued its reply under letter dated 16.05.2016. The due procedure as set out in Section 13(3A) of the SARFAESI Act was thus adhered to in true letter and spirit. We therefore find no irregularity as alleged by the petitioner warranting interference with the impugned possession notice.

The writ petition is accordingly dismissed. The petitioner is at liberty to avail appropriate remedies in accordance with law as and when a fresh cause of action arises.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR, J

GUDISEVA SHYAM PRASAD, J

Date: 07.07.2017

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