

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

WRIT PETITION NO.46544 of 2016

ORDER: (per SK,J)

The petitioner claims to be a tenant in possession of the secured asset. It filed this writ petition assailing the possession notice dated 17.04.2015 issued by the Bank of Maharashtra in relation to the said tenanted premises.

By order dated 03.01.2017, this Court, opining that the petitioner was a protected statutory tenant, granted interim stay of its dispossession. The petitioner was however directed to pay the future rents to the bank. Subsequently, it appears that the bank invoked Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), and the Chief Metropolitan Magistrate, Hyderabad, passed orders dated 29.01.2016 in CrI.M.P.No.3044 of 2015.

W.P.M.P.No.207 of 2017 was filed seeking amendment of the prayer in this writ petition laying a challenge to the said order. However, the amendment petition is yet to be ordered.

Sri M.Srikanth Reddy, learned counsel for the respondent Bank, would fairly concede that the petitioner is still in possession of the tenanted premises though the order under Section 14 of the SARFAESI Act was passed as long back as on 29.01.2016. Learned counsel would further point out that the petitioner is not a statutory tenant as the registered rental agreement, under which it is claiming such rights, demonstrates that the monthly rental payable was Rs.18,000/-. He would

further point out that the lease period reserved thereunder expired long ago.

This Court is not inclined to go into these issues of fact inasmuch as the petitioner is provided an effective alternative remedy after the amendment of the SARFAESI Act, whereby Section 17(4A) has been inserted in the statute. It is therefore appropriate to relegate the petitioner to this statutory remedy.

The writ petition is accordingly closed leaving it open to the petitioner to avail the statutory remedy within four weeks from today. Till such period, the interim protection granted by this Court pending this writ petition shall continue to operate. Thereafter, the petitioner is at liberty to seek appropriate interim relief before the jurisdictional Debts Recovery Tribunal.

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



SANJAY KUMAR,J

J.UMA DEVI,J

Date:13.11.2017

GJ