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

WRIT PETITION No.42109 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, the Petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the actions of the respondent without any appropriate time and opportunity is illegal and violation of principles of natural justice, contrary to law and consequentially direct the respondent/ bank not to proceed further without giving sufficient opportunity and time for protection of her property equitable mortgaged with respondent/bank in respect of property part of second floor bearing municipal No.3-6-150/3, admeasuring 2377 sft together with undivided share of land 108 sq.yds out of 706 sq.yds, in premises bearing municipal No.3-6-150, situated at Himayat nagar, Hyderabad, Telanagana State and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Heard Sri Kaatrapati Satyanarayana, learned counsel for the petitioner, and Sri N.Mehar Prasad, learned counsel for the Allahabad Bank, the respondent herein.

In terms of the possession notice issued by the respondent bank under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002, the amount due and payable as on 19.09.2017 when a demand notice was issued by it under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), stood at Rs.2,23,41,163/-. The petitioner herein was the guarantor for the aforestated loan which was availed by M/s.Lakshmi Traders. Aggrieved by the proceedings initiated by the respondent bank in relation to the property that she had offered as a security interest for the loan, the petitioner is before this Court.

Sri Kaatrapati Satyanarayana, learned counsel, would state at the outset that given sufficient time, his client would clear the entire outstanding dues.

Sri N.Mehar Prasad, learned counsel, is also agreeable provided the interest of his client is duly protected.

As the respondent bank is yet to take concrete measures for realization of its dues and is still at the stage of securing possession of the asset, we are of the opinion that an opportunity may be afforded to the petitioner to prove her *bonafides* by clearing the outstanding dues within reasonable time.

The writ petition is accordingly disposed of with the following directions:

The petitioner shall ascertain the total outstanding dues of the respondent bank along with the interest accrued thereon and other incidental costs, if any. The petitioner shall make payment of 50% of such total outstanding dues within one month from today. The balance 50% amount along with the interest accrued up to the end of the period shall be paid by the petitioner within one month thereafter. In the event the petitioner fails to make either of the aforestated payments, it would be open to the respondent bank to take measures under the SARFAESI Act for obtaining possession of the secured asset and for realization of its dues as per the due procedure. We further make it clear that the petitioner is not entitled to seek extension of time for making the payments and would not be entitled to any further indulgence.

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: 21.12.2017
<u>Note</u>:-
Issue CC by tomorrow.
B/o
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