

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HONBLE DR JUSTICE B.SI VA SANKARA RAO

WRIT PETITION No. 44956 OF 2017

ORDER: (Per the Hon'ble Sri 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 High Court may be pleased to issue a Writ or Direction or an Order which particularly in the nature of WRIT OF MANDAMUS declaring the action of the respondent bank in pursuance to the demand notice dated 24.10.2017 u/s 13(2) under SARFAESI Act in respect of the property of all that the property bearing D.No.56/2-13 old ward 2/2-13 on plot Nos.10&11 in Sy.No.47/5, admeasuring 242 Sq.yds or Ac.0.05 Cents situated at Akkayapalli (V) fields, Kadapa District is illegal, arbitrary, violative of Article 14 of the Constitution of India and consequently direct the respondent not to enforce the said notice and pass such other Order or Orders as this Hon'ble High Court deemed fit and proper in the circumstances of the case."

Sri T. Sridhar, learned counsel for the petitioner, would submit that in response to the impugned demand notice dated 24.10.2017, the petitioner submitted representation dated 31.10.2017 but, without considering the same, the Lakshmi Vilas Bank, the respondent herein, published the demand notice in the newspaper.

In the light of the law laid down by the Supreme Court in *Devi Ispat Ltd. vs. State Bank of India*¹ and *Punjab National Bank vs. Imperial Gift House*², a writ petition would not lie ordinarily against a demand notice issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

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

SANJAY KUMAR, J

Date: 29.12.2017

Dr. B.SI VA SANKARA RAO, J

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¹ (2014) 5 SCC 762

² (2013) 14 SCC 622