

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION No.687 OF 2018**

**ORDER :**

This Writ Petition is filed seeking writ of mandamus declaring the action of the 3<sup>rd</sup> respondent in issuing the impugned Lr.No.0257/52/OCC/Sai Nidhi, dated 16.12.2017, wherein the 3<sup>rd</sup> respondent threatened to dispossess the petitioner from the school building/premises, without considering the representation of the petitioner dated 14.12.2017, which is pending before the respondents 1 to 3 as illegal and arbitrary and consequently to aside the impugned letter dated 16.12.2017.

Heard learned counsel for the petitioner and Sri Vijay Kumar Heroor, learned Standing Counsel for 3<sup>rd</sup> respondent.

Learned counsel for the petitioner submits that the petitioner is the Secretary/Correspondent of the school i.e., SRM High School and same is being run from 1<sup>st</sup> class to 10<sup>th</sup> class after getting necessary permissions from the Government and the total strength of students would be 1200, along with 43 teaching and 71 non-teaching staff. He submits that the 3<sup>rd</sup> respondent by way of impugned proceedings, threatened to dispossess the petitioner from subject school and proposed to take possession of the school building and if he succeeds in his attempts, the students will suffer. He submits that the petitioner is ready to pay the regular EMIs as being paid by the original defaulters and petitioner may be continued for this academic year.

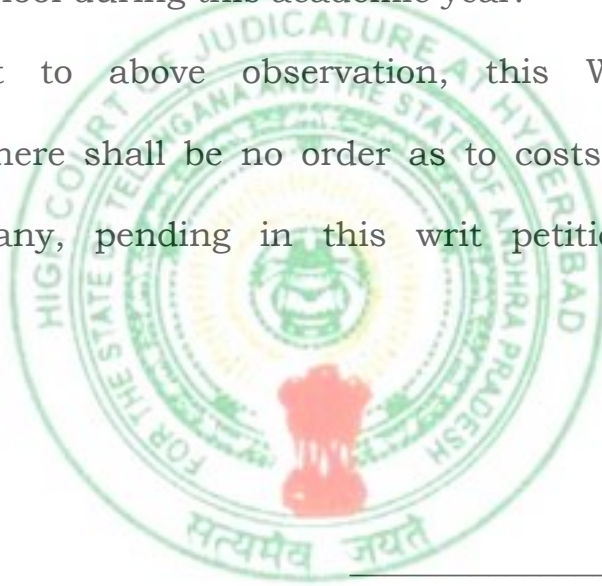
Sri Vijay Kumar Heroor, learned Standing Counsel for the 3<sup>rd</sup> respondent- Bank, while reiterating the averments in the counter affidavit submits that the petitioner was being reminded for vacating the subject premises from 2016 onwards. He submits that the original borrowers are liable to pay an amount of Rs.10 crores and odd and that they have invoked the provisions of SARFAESI Act against the defaulters/original borrowers. He submits that the petitioner has no legal right to stall the said proceedings against the defaulters and that the petitioner is in possession by way of unregistered lease deed.

In this case, it is to be seen that when petitioner was asked to vacate the premises last year, she filed WP No.17719 of 2017 and withdrew the same on 23.11.2017. It is not the case of the petitioner that the 3<sup>rd</sup> respondent has issued notice in the middle of the academic year, but they are reminding the petitioner since the year 2016 onwards. Petitioner has not shown any legally enforceable right to stall the proceedings initiated by the 3<sup>rd</sup> respondent Bank under SARFAESI Act. When once the petitioner does not having any legally enforceable right, this Court cannot grant relief to the petitioner, by interfering in proceedings of the 3<sup>rd</sup> respondent. That apart, petitioner has not challenged the proceedings initiated by the 3<sup>rd</sup> respondent under SARFAESI Act. In the absence of the same, the relief, as sought by the petitioner, in this Writ Petition, cannot be granted, by exercising the power under Article 226 of the Constitution of India. The other grievance of the petitioner is that they made request on

14.12.2017. But after considering the same, the 3<sup>rd</sup> respondent Bank issued impugned proceedings on 16.12.2017.

In view of above facts and circumstances, this Court cannot interdict or restrain the 3<sup>rd</sup> respondent from pursuing the proceedings under SARFAESI Act. Since it is stated that the representation of the petitioner dated 14.12.2017 is stated to be pending before the 2<sup>nd</sup> respondent, it is for the 2<sup>nd</sup> respondent to consider the same and extend the time for vacating the subject premises, since it is stated that 1200 students are studying in the petitioner's school during this academic year.

Subject to above observation, this Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed.



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**A.RAJASHEKER REDDY, J**

19.07.2018  
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