

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION NO.718 OF 2018

ORDER: (per SK,J)

The petitioner approached this Court by way of the present writ petition being aggrieved by the order dated 20.11.2017 passed by the learned Chief Judicial Magistrate, Warangal, in CrI.M.P.No.236 of 2017, in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

By order dated 05.01.2018, this Court took note of the fact that the petition filed by the ICICI Bank Limited (*hereinafter*, 'the bank') under Section 14 of the SARFAESI Act, which led to the passing of the impugned order, did not meet the requirements of the proviso to the said provision and accordingly granted interim stay of the operation of the impugned order.

Sri G.Kalyan Chakravarthy, learned counsel entered appearance for the bank.

Having heard the learned counsel for the parties, we are of the opinion that the affidavit filed by the bank in support of its petition under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Warangal, does not satisfy the requirements spelt out in Clauses (i) to (ix) specified under the first proviso to Section 14 thereof. The affidavit is completely bereft of details and is brief to the point of being cryptic. In that view of the matter, the order under challenge passed on the strength of this defective affidavit cannot be sustained.

The writ petition is accordingly allowed setting aside the order dated 20.11.2017 passed by the learned Chief Judicial Magistrate, Warangal, in CrI.M.P.No.236 of 2017. All issues are left open.

We make it clear that we have not ventured into the merits of the matter and this order is being passed only on the strength of the violation of the statutory mandate as aforesaid. This order shall also not preclude the ICICI Bank from taking steps afresh under Section 14 of the SARFAESI Act.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

D.V.S.S.SOMAYAJULU,J

Date:14.03.2018

GJ