HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.928 of 2018

ORDER: (*per Hon'ble Sri Justice Sanjay Kumar)*

The prayer of the petitioner in this case reads as under:

> "It is prayed that this Hon'ble Court may be pleased to issue Writ of *Mandamus* or any other appropriate writ or order by Setting aside the orders dated 06.12.2017 in IA.No.1699/2017 in SA.No.384/2017 which are passed in pursuance of the Advocate Commissioner notice dated 07.11.2017 in pursuance of the orders in CrlMP.No.1919/2017 dated 21.07.2017 on the file of the learned Chief Metropolitan Magistrate, Vijayawada initiated by the respondent bank the provisions of the SARFAESI Act by declaring as illegal, null and void by directing the respondent bank receive the over due amounts in three months time by rescheduling the account and to, consequently direct the Debts Recovery Tribunal, Visakhapatnam, to pass orders on merits in SA.No.384/2017 and pass such other order or orders on merits to which the petitioner are entitled to be in the interest of justice."

Perusal of the order dated 06.12.2017 passed by the Debts Recovery Tribunal, Visakhapatnam, in I.A.No.1699 of 2017 in S.A.No.384 of 2017 reflects that the Tribunal granted interim stay of further proceedings initiated by the Sundaram BNP Paribas Home Finance Limited, the respondent, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act') subject to the condition that the petitioner deposits 20% of the amount due to the respondent within 15 days from the date of the order and another 20% of the amount due within 15 days thereafter.

The petitioner had filed the said Securitization Application before the Tribunal aggrieved by the order dated 07.11.2017 passed by the learned Chief Metropolitan Magistrate, Vijayawada, in Crl.M.P.No.1919 of 2017, in exercise of power under Section 14 of the SARFAESI Act. Aggrieved by the conditions imposed by the Tribunal, while granting stay, the petitioner filed this Writ Petition. The petitioner also prayed for a direction to the respondent to receive the overdue amounts in three months time and to reschedule the loan account.

No interim orders were granted by this Court in the Writ Petition.

Ms. Ajitha, learned counsel representing Mr. D.Raghavulu, learned counsel for the petitioner, would admit that no payments were made by the petitioner to the respondent within three months as stated by him in the prayer. She further states that she has no instructions as to whether the order secured by the respondent under Section 14 of the SARFAESI Act has been acted upon after the stay granted by the Tribunal stood vacated due to non-compliance with the conditions imposed therein.

On the face of it, we find no error having been committed by the Tribunal in imposing conditions before grant of stay. As the petitioner admittedly failed to abide by the said conditions, he can have no grievance with the action taken by the secured creditor in terms of the default clause added by the Tribunal in the order dated 06.12.2017 passed by it in I.A.No.1699 of 2017 in SA.No.384 of 2017. The further prayer of the petitioner that the respondent should reschedule the loan account was subject to his making the overdue payments within three months which has admittedly not been done.

Viewed from any angle, we find no merit in this Writ Petition which is accordingly dismissed.

Pending Miscellaneous Petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE T.AMARNATH GOUD

09th July, 2018
DR