

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

WRIT PETITION NO.1096 OF 2018

ORDER

(Per Hon'ble Sri Justice Sanjay Kumar)

The grievance of the petitioner, who claims to be a tenant in the premises of the secured asset, was that the Indian Bank, the secured creditor, took over the possession of the tenanted premises of the secured asset without following the due procedure laid down by law.

By interim order dated 05.01.2018 passed in this writ petition, this Court directed as under:

'The petitioner claims to be a tenant in possession of the secured asset, wherein he is running a school.

We are of the opinion that had the respondent initiated proceedings under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act'), the Magistrate concerned was bound to give notice to the petitioner, the tenant in possession, in terms of the law laid down by the Supreme Court in HARSHAD GOVARDHAN SONDAGAR V/ s. INTERNATIONAL ASSETS RECONSTRUCTION COMPANY LIMITED (2014) 6 SCC 1].

Sri Chetluru Sreenivas, learned counsel for the petitioner, states that no such notice has ever been received by his client.

The action of the respondent in locking up the school premises *prima facie* appears to be illegal.

There shall accordingly be an interim order as prayed for. However, the petitioner shall remit the monthly rentals to the respondent pending further orders.'

Sri Ambadipudi Satyanarayana, learned counsel for the Indian Bank, would inform this Court that pursuant to the aforestated order, the possession of the premises of the secured asset was redelivered to the tenant. He would further state that measures would be initiated afresh in accordance with the due procedure laid down in the SARFAESI Act for securing possession of the secured asset.

Taking note of the aforestated submission, the writ petition is closed leaving it open to Indian Bank to initiate measures afresh in accordance with the due

procedure laid down in HARSHAD GOVARDHAN SONDAGAR V/s. INTERNATIONAL ASSETS RECONSTRUCTION COMPANY LIMITED¹ for obtaining possession of the secured asset.

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

SANJAY KUMAR, J

T.AMARNATH GOUD, J

25th JUNE, 2018

Sv



¹ [(2014) 6 SCC 1]