THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION No.2787 OF 2018

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

The prayer of the petitioner 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 in dispossessing/attaching the property of the petitioner schedule properties Schedule of the Secured Assets Nos.1, 2 and 3 in SA No.17 of 2018 on the file of the Debts Recovery Tribunal-II Hyderabad under Section 13(4) of SARFAESI Act, is illegal, arbitrary, violative of provisions of SARFAESI Act, 2002, fundamental rights guaranteed under the Constitution of India and consequently direct the respondent not to take any further steps for dispossession/attachment of the petitioner's above schedule properties and pass such other order or orders as this Hon'ble High Court deemed it fit and proper in the circumstances of the case."

Heard Sri A.Jagan, learned counsel for the petitioner, and Smt.K.Nandini, learned counsel on caveat for the UCO Bank, the respondent.

By order dated 22.01.2018 passed in I.A.No.184 of 2018 in S.A.No.17 of 2018, the Debts Recovery Tribunal-II, Hyderabad, granted interim stay of all further proceedings pursuant to the action initiated by the respondent bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('for short, 'the SARFAESI Act'), including taking over of physical possession of the petition schedule property therein by the bank through an Advocate Commissioner in pursuance of the order dated 22.11.2017 passed by the learned Chief Metropolitan Magistrate, Cyberabad at L.B.Nagar, in Crl.M.P.Nos.985 and 992 of 2017, in exercise of power under Section 14 of the SARFAESI Act, subject to the petitioner depositing 30% of the total outstanding dues, the first instalment of 15% being payable within one week from the date of the order and the second instalment of 15% being payable within two weeks thereafter. These amounts were to be deposited directly with the respondent bank.

The cause for grievance presently is that the Tribunal granted insufficient time to the petitioner to make the deposit of the first instalment of 15% of the total outstanding dues. The petitioner claims that as there were two intervening public holidays within the one week time stipulated by the Tribunal, being the Republic Day on 26.01.2018 and the Sunday on 28.01.2018, it could not raise the necessary funds for making the deposit of the first instalment.

Sri A.Jagan, learned counsel, would submit that given further time, his client would make the entire deposit of 30% of the total outstanding dues, as directed by the Tribunal.

We find merit in the submission of Sri A.Jagan, learned counsel, that in the event the petitioner had to raise the necessary funds for making the deposit of the first instalment of 15%, one week time granted by the Tribunal with two intervening public holidays therein would be insufficient.

It may be noted that the two weeks time stipulated by the Tribunal for deposit of the second instalment of 15% would expire on 12.02.2018.

The writ petition is accordingly disposed of permitting the petitioner to make the deposit of the entire 30% of the total outstanding dues with the respondent bank before 5.00 p.m. on 12.02.2018. In the event the petitioner fails to make the deposit by the said date, this order shall stand withdrawn and the respondent bank would be at liberty to proceed further in accordance with law, as per the order of the Tribunal.

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

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SANJAY KUMAR,J

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P. KESHAVA RAO,J

Date: 31.01.2018
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