

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

WRIT PETITION NO.22724 OF 2017

ORDER: (per SK,J)

The petitioner seeks to assail the order dated 04.02.2017 passed by the learned Chief Metropolitan Magistrate, Cyberabad at L.B.Nagar, in CrI.M.P.No.123 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'). The said application was filed by M/s. Asset Reconstruction Company (India) Ltd. (ARCIL) in relation to the residential flat mortgaged by the petitioner in the capacity of a guarantor for the loans extended by a consortium of banks led by the State Bank of India to one Sri Lalitha Cement Industries Limited. The only ground taken by the petitioner to assail the aforesaid order is that she did not receive a notice under Section 13(4) of the SARFAESI Act.

However, Sri M.Srikanth Reddy, learned counsel for the ARCIL, would draw our attention to para 5.7 of the Memorandum of Application in S.A.No.477 of 2012 filed by Sri Lalitha Cement Industries Limited and others under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal, Hyderabad, wherein the petitioner figured as the seventh applicant. In the said paragraph, reference was made to initiation of measures by the secured creditors under Section 13(4) of the SARFAESI Act for taking symbolic possession of the application schedule properties on 26.10.2012. A categorical statement was made to the effect that a copy of the possession notice (symbolic) issued by the secured creditor under Rule 8(1) and (2) of the Security Interest (Enforcement) Rules,

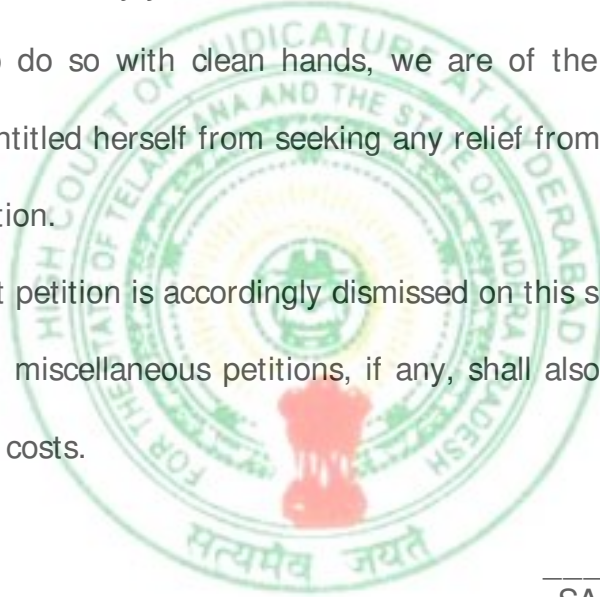
2002 was filed therewith as Annexure A-4. The subject residential flat finds mention in the schedule appended to the said possession notice under the caption 'Properties Belonging to Applicants 2 to 10'. The petitioner was therefore well aware of the measures taken by the secured creditors.

It is therefore clear that the petitioner, either intentionally or otherwise, made a factually incorrect statement in the affidavit filed in support of the writ petition that she did not receive the said possession notice. As a litigant who approaches this Court and more particularly, invokes its discretionary jurisdiction under Article 226 of the Constitution, is expected to do so with clean hands, we are of the opinion that the petitioner disintitiled herself from seeking any relief from this Court by the aforestated action.

The writ petition is accordingly dismissed on this short ground.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.



SANJAY KUMAR,J

D.V.S.S.SOMAYAJULU,J

Date:07.03.2018

GJ