

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

WRIT PETITION No.3987 OF 2018

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

The petitioner is aggrieved by the action of the Indian Bank, Nellore, the respondent herein, in initiating steps under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), by filing CrI.M.P.No.15 of 2018 before the learned Principal Senior Civil Judge-cum-Chief Judicial Magistrate, SPSR Nellore District.

The case of the petitioner is that the respondent bank issued him a demand notice under Section 13(2) of the SARFAESI Act on 01.11.2017, which was received by him on 17.11.2017, and even before expiry of the statutorily stipulated sixty days for repayment of the dues mentioned therein or submitting of objections/representation by him, the bank filed the application under Section 14 of the SARFAESI Act on 12.01.2018.

Taking note of the aforestated facts, this Court, on 07.02.2018, granted interim stay of all further proceedings in CrI.M.P.No.15 of 2018 on the file of the learned Principal Senior Civil Judge-cum-Chief Judicial Magistrate, SPSR Nellore District.

Sri Ambadipudi Satyanarayana, learned counsel for the respondent bank, would fairly concede that due to oversight, the bank committed a mistake in taking steps under Section 14 of the SARFAESI Act before expiry of the stipulated sixty days in terms of Section 13(2) thereof.

In the light of this concession, the writ petition is allowed declaring the proceedings in CrI.M.P.No.15 of 2018 on the file of the learned Principal Senior Civil Judge-cum-Chief Judicial Magistrate, SPSR Nellore

District, as illegal and unsustainable. This order shall however not preclude the respondent bank from taking measures, if necessary, in future in accordance with the due procedure laid down in the SARFAESI Act.

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

Date: 06.03.2018  
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D.V.S.S.SOMAYAJULU,J

