

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

WRIT PETITION NO.4677 of 2018

ORDER: (per SK,J)

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

'For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction more especially one in the nature of Writ of Mandamus to declare the impugned possession notice dated 05 02 2018 issued under Sec 13 (4) of SARFAESI Act in respect of the residential building described thereunder by the respondent as being illegal, arbitrary and unjust and set-aside the said notice and to grant other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

Sri Gopalakrishna Gorle, learned counsel for the petitioner, would submit that the petitioner submitted representation dated 01.02.2018 in response to the demand notice issued by the State Bank of India under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), on 06.11.2017. Despite the same, the bank did not consider the said representation and straight away issued possession notice dated 05.02.2018 under Section 13(4) of the SARFAESI Act read with Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 (for short, 'the Rules of 2002').

As it is well settled that the bank is bound to consider any representation made or objections raised by the borrower in response to a demand notice under Section 13(2) of the SARFAESI Act, Sri Maruthi Jadhav, learned counsel representing Sri B.S.Prasad, learned counsel for

the State Bank of India, was asked to get instructions as to whether the petitioner's representation was considered or not.

Today, Sri Maruthi Jadhav, learned counsel, would inform this Court that as the petitioner addressed her representation to the Assistant General Manager of the State Bank of India at Vizianagaram instead of the Authorised Officer at its M.G.Road Branch, Vizianagaram, there was some delay in the said representation being forwarded and in the meanwhile, the possession notice was issued on 05.02.2018. But, as the bank came to know of the petitioner's representation, the said possession notice was not published in two newspapers within seven days as mandated by Rule 8(2) of the Rules of 2002. He would further state that the petitioner's representation is presently under consideration.

In that view of the matter, the cause in this writ petition no longer survives for consideration as the impugned possession notice has worked itself out.

The writ petition is accordingly closed.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

SANJAY KUMAR,J

P.KESHAVA RAO,J

Date:19.02.2018

GJ