

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

WRIT PETITION No. 4891 OF 2018

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

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

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent Nos.1 and 4 trying to take possession by break open the lock of the petitioner house i.e., D.No.4-62/2, Kothapeta, Kesarapalli Village, Gannavaram Mandal, Krishna District under Section 14 of SARFAESI Act, 2002 in contrary to the mortgaged house by the respondents No.2 and 3 as illegal, arbitrary, null and void and violative of Article 19, 21 and 300-A of the Constitution of India as well as violative of principles of natural justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

Sri M. Srikanth Reddy, learned counsel for the State Bank of India, stated that an application was made by the Bank under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “SARFAESI Act, 2002”) before the learned Principal Senior Civil Judge-cum-Chief Judicial Magistrate, Machilipatnam, in CrI.M.P.No.11 of 2018, whereupon an advocate commissioner was appointed to take over physical possession of the secured asset. He placed before us a copy of the application filed along with the advocate commissioner's warrant and the schedule of property.

Upon perusing the aforestated documents, Sri N. Nagaraju, learned counsel for the petitioner, fairly stated that the petitioner may be relegated to the statutory remedy available to him under Section 17 of the SARFAESI Act, 2002.

Accepting this plea, the writ petition is dismissed leaving it open to the petitioner to avail the statutory remedy in accordance with law before

the appropriate forum. We make it clear that we have not ventured into the merits of the matter and all issues are left open. No order as to costs.

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

SANJAY KUMAR, J

P. KESHA RAO, J

Date: 20.02.2018

Note:- Furnish C.C. in two days.
ES/CCM

