

**HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

WRIT PETITION No.6291 of 2018

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

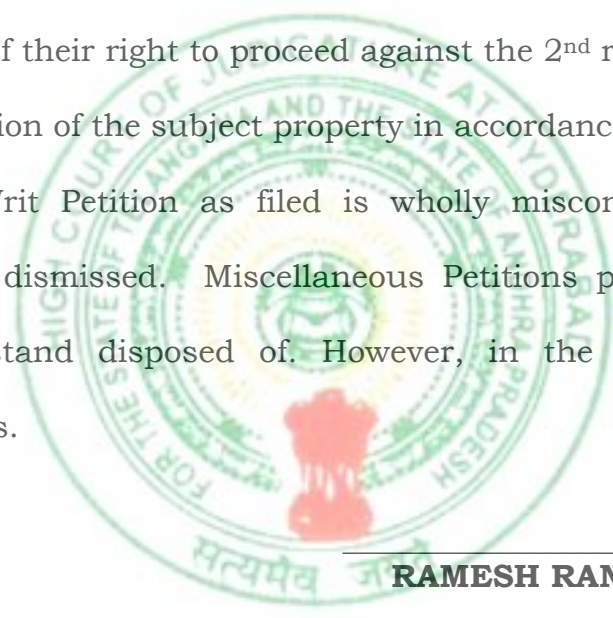
The relief sought for in this Writ Petition is to declare the action of the first respondent, in trying to dispossess the petitioners from the subject property of an extent of Ac.4.00 situated in Sy.Nos.786 and 769, Masaipet Village, Yadagirigutta Mandal, Yadadri District, without taking possession in accordance with Rule 8 of the Security Interest Enforcement Rules, 2002, as being illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India.

The first petitioner is a partnership firm which claims to have secured a registered lease deed from the 2nd respondent on 28.10.2013, in respect of the subject property, for a period of five years. It is not in dispute that the subject property was mortgaged to the first respondent – Bank; and, on the 2nd respondent committing default in the repayment of the loan, the account of 2nd respondent was declared a non-performing asset. Proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) were initiated to take possession of the mortgaged property, and for its sale with a view to recover the dues of the 1st respondent. A notice, under Section 13(2) of the Act, was issued to the 2nd respondent on 08.08.2012. The subject lease was illegally executed by the 2nd respondent, in the petitioner's favour, only after receipt of the notice from the authorized officer of the 1st respondent – Bank under Section 13(2) of the Act. Even otherwise, the five year

lease, granted in the petitioner's favour, expired yesterday i.e. 16.08.2018.

While Sri J.Venugopal, learned counsel for the petitioner, would contend that the lease agreement contains an extension clause, the very fact that such a lease was executed by the borrower after receipt of the notice under Section 13(2) of the Act reveals his dubious intent of thwarting the 1st respondent attempt to take possession of the subject property in accordance with the provisions of the Act. We see no reason therefore, to entertain this Writ Petition which is but a disguised attempt to deprive the first respondent of their right to proceed against the 2nd respondent, and take possession of the subject property in accordance with law.

The Writ Petition as filed is wholly misconceived and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand disposed of. However, in the circumstances, without costs.



RAMESH RANGANATHAN, J

KONGARA VIJAYA LAKSHMI, J

Date: 17.08.2018
 usd

