

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

WRIT PETITION NO.6969 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 prayed that this Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction on the part of Debts Recovery Tribunal - II at Hyderabad in SA No.1483 of 2017 in not passing orders in the Stay Petition filed by the Petitioner as illegal, arbitrary, unjust and it's violation of article 300-A of Constitution of India and consequently declare that the proceedings initiated by the Respondent Bank No.2 under SARFAESI Act in respect of SA Schedule properties including the sale dated 16-02-2018 is null and void and pass such other order or orders as this Court may deem fit in the circumstances of the case and in the interest of justice.'

The petitioner is admittedly a third party to the loan transaction between his nephew, Prasad Anjaneya Daggubati, the third respondent herein, and the Standard Chartered Bank, the second respondent herein. He claims to have purchased the subject property from the third respondent in the year 2005. It appears that the second respondent bank initiated recovery proceedings in relation to the loan account of the third respondent upon its becoming a non-performing asset. The said recovery proceedings culminated in the sale of the asset over which the petitioner claims rights in February, 2018. Prior thereto, the petitioner filed S.A.No.1483 of 2017 before the Debts Recovery Tribunal-II, Hyderabad, assailing the possession notice dated 20.11.2017 issued by the second respondent bank. A declaration was also sought therein that the proceedings initiated by the second respondent bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of

Security Interest Act, 2002 (for short, 'the SARFAESI Act'), including taking over of the physical possession of the property, was null and void.

Smt.V.Dyumani, learned counsel for the petitioner, would inform this Court that after the sale was held by the second respondent bank in February, 2018, an application was moved in S.A.No.1483 of 2017 to amend the prayer therein. An application was also filed by the petitioner seeking interim relief in the context of the said sale. Learned counsel, would state that the Tribunal adjourned the matter to 08.03.2018 without considering the plea of the petitioner for grant of interim relief.

In the light of the aforestated facts, we are of the opinion that as the petitioner has already approached the jurisdictional Tribunal by filing an application under Section 17(1) of the SARFAESI Act, it would be wholly inappropriate for this Court to entertain this writ petition at this stage. It is for the petitioner to seek redressal of his grievances before the said Tribunal, be it by way of a fresh application or by amending the pending application. That being said, the Tribunal must also be sensitive to the urgency of the matter, if any, as demonstrated by the facts of the individual case coming before it. Failure to grant timely relief may not only render the matter infructuous but may also cause irreparable injustice. As the Tribunal has posted the matter on 08.03.2018, we are of the opinion that the interest of justice would be sufficiently served by directing the Tribunal to consider the petitioner's application for interim relief on its own merits and in accordance with law on the said date.

As we have not ventured into the merits of the matter and the writ petition is disposed of with a direction to the Tribunal to consider the case before it on its own merits and in accordance with law, this Court deems it

unnecessary to either put the respondents on notice or afford them an opportunity of hearing.

The writ petition is accordingly disposed of with the above observation.

Pending miscellaneous petitions, if any, shall also stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

Date:05.03.2018

Note:

Furnish C.C. by 07.03.2018.
(B/o) GJ

D.V.S.S.SOMAYAJULU,J

