

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

WRIT PETITION NO.6983 OF 2018

ORDER: (per SK,J)

The petitioner seeks to assail the order dated 31.01.2018 passed by the Debts Recovery Tribunal-II, Hyderabad, dismissing I.A.No.179 of 2018 in S.A.No.1412 of 2017 filed by him. The subject I.A. was filed by the petitioner seeking stay of all further proceedings pursuant to the Advocate-Commissioner's Warrant dated 11.01.2018 issued on the strength of the order dated 21.12.2017 passed by the learned Chief Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar, in CrI.M.P.No.1155 of 2017 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

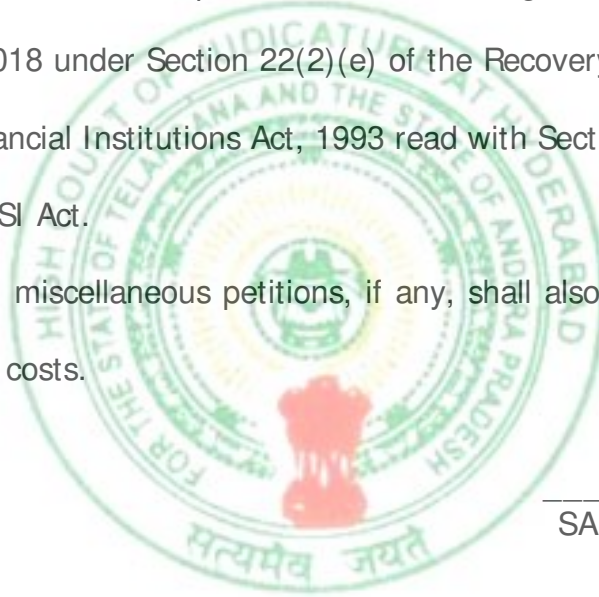
Neither the affidavit filed in support of the subject I.A. nor the order dated 31.01.2018 passed by the Tribunal reflects that the petitioner advanced any arguments on any specific violations of the provisions of the SARFAESI Act, in the context of the application filed by the Bank of Baroda, the respondent herein, under section 14 of the SARFAESI Act. Such arguments are now sought to be advanced before this Court by Smt.V.Dyumani, learned counsel for the petitioner. When the arguments presently advanced were not even put forth before the Tribunal in I.A.No.179 of 2018 in S.A.No.1412 of 2017, we find no error in the order passed by the Tribunal thereon.

In the absence of a challenge based on specific provisions, the bald allegation that the bank was proceeding to take physical possession of the secured asset without following the due procedure and in contravention of

the provisions of the SARFAESI Act and the Rules framed thereunder would not be sufficient. It is not for the Tribunal to initiate a roving enquiry on the strength of such a bald allegation. The litigant must necessarily pinpoint the area of attack on the strength of the specific provisions which, according to him, stand violated. As such a plea was never advanced before the Tribunal in I.A.No.179 of 2018 in S.A.No.1412 of 2017, we find no reason to entertain this writ petition against the order dated 31.01.2018 passed by the Tribunal thereon.

The writ petition is dismissed on this short ground. This order shall however not preclude the petitioner from seeking review of the order dated 31.01.2018 under Section 22(2)(e) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 read with Sections 17(7) and 37 of the SARFAESI Act.

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



SANJAY KUMAR,J

D.V.S.S.SOMAYAJULU,J

Date:05.03.2018

GJ