

THE HON'BLE SRI JUSTICE SANJAY KUMAR

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION NO.7099 OF 2018

ORDER: {Per the Hon'ble Sri Justice Sanjay Kumar}

The prayer of the petitioners in this case reads as under.

“...to issue writ, order or direction more in the nature of Writ of Mandamus declaring the order dated 30.12.2017 in CrI.MP.No.1195 of 2017 on the file of the Hon'ble Learned Chief Metropolitan Magistrate, Cyberabad at LB Nagar, Ranga Reddy District in seeking to take over physical possession of the immovable property as wholly illegal, arbitrary and contrary to the orders of *status quo* passed in SA.No.23 of 2014 (now renumbered as SA.No.103 of 2017) dated 19.03.2014 and as such contrary to Articles 14, 19 and 300-A of the Constitution of India and pass such other consequential reliefs and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

Sri Srikanth Hariharan, learned counsel for the petitioners, would fairly concede that SA.No.23 of 2014, now renumbered as SA.No.103 of 2017 on the file of the Debts Recovery Tribunal-II, Hyderabad, was filed by the petitioners aggrieved by the possession notice issued by the Andhra Bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“the SARFAESI Act”, for brevity). He would state that an order of *status quo* was passed in the said case on 10.01.2014 and the same was continued thereafter from time to time.

However, we find from the docket proceedings in the said SA that the last such extension of the order of *status quo* was on

23.04.2015. There was no Presiding Officer for the Tribunal thereafter and the matter underwent adjournments on various dates. It was then made over to the Debts Recovery Tribunal-II, Hyderabad, in the year 2017 and was taken up by the said Tribunal in the month of February, 2017, for the first time. The matter thereafter underwent seven (7) adjournments till August, 2017. However, there seems to have been no effort on the part of the petitioners to seek revival of the *status quo* order or any other interim relief.

It appears that the loan account of the petitioners was assigned to the third respondent-company by the Andhra bank and a fresh possession notice was issued by the third respondent-company under Section 13(4) of the SARFAESI Act. This was followed by an application under Section 14 of the SARFAESI Act in CrI.MP.No.1195 of 2017 on the file of the learned Chief Metropolitan Magistrate, Cyberabad at L.B.Nagar, Ranga Reddy District. It is the order passed therein that is now sought to be challenged before this Court.

However, as the petitioners have already invoked the statutory remedy under Section 17 of the SARFAESI Act by filing SA.No.23 of 2014 (now, SA.No.103 of 2017) and the same is pending consideration before the Debts Recovery Tribunal-II, Hyderabad, we are of the opinion that it would be wholly inappropriate for this Court to entertain the Writ Petition. It is not open to a litigant to pursue parallel remedies simultaneously before the Tribunal as well as before this Court. Any grievance that the petitioners may have as to the order dated 30.12.2017 passed in CrI.MP.No.1195 of 2017 by the learned Chief

Metropolitan Magistrate, Cyberabad at L.B.Nagar, Ranga Reddy District, or in the context of the application which was filed by the third respondent-company in support of CrI.MP.No.1195 of 2017, can as well be redressed by the Tribunal which is already seized of the matter.

The Writ Petition is accordingly dismissed on this short ground leaving it open to the petitioners to seek appropriate relief before the Tribunal. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

(SANJAY KUMAR, J)

(D.V.S.S.SOMAYAJULU, J)

5th March 2018
RRB

Note: Issue CC in two days
B/O
PGS

