

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition No.8969 of 2018

Order: (per V.Ramasubramanian, J.)

A person who was inducted as a tenant after issue of a demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has come up with the above writ petition challenging the threat of dispossession.

2. Heard Mr. A.Suryanarayana, learned counsel for the petitioner and Mr. Ambadipudi Satyanarayana, learned Standing Counsel for the 1st respondent/Bank.

3. There is no dispute about the fact that the petitioner was inducted as a tenant only after the issue of the notice under Section 13(2) of the Act. Therefore, the tenancy was in contravention of Section 13(13) of the Act.

4. Realising this difficulty, the learned counsel for the petitioner submitted that since the petitioner is running an industry, he may be granted a reasonable time to vacate the property. The request, in our considered view, can be accepted for reasons which are in the interest of the Bank itself.

5. The strict legal course of action open to us in cases of this nature is to dismiss the writ petition allowing the Bank to take possession. Once they do, they have to engage Security Guards round the clock incurring monthly expenditure of

about Rs.30,000/- on the property that they have taken possession.

6. On the contrary, if the petitioner is granted some time to handover possession, at least the rental income may come to the kitty of the Bank. It is true that the meagre rental income will only be a trickle insofar as the Bank is concerned, since the liability is nearly Rs.10 Crores. But still the other alternative does not appear to be economically viable even for the Bank.

7. Therefore, we are of the considered view that the petitioner could be granted some time to vacate the property. But one more issue is raised by the petitioner. The petitioner claims that they are in possession of the entire building viz., Ground + 3 Floors. But the registered lease deed is only in respect of the Ground Floor portion. According to the petitioner, the other three floors were taken on oral lease in the year 2017. But we cannot take note of any oral lease.

8. Therefore, the writ petition is disposed of to the following effect:

(i) The petitioner is granted time up to 30th June, 2018, to vacate and handover vacant possession of the Ground Floor of the property to the Authorised Officer of the Bank and not to the landlord,

(ii) It is open to the Bank to take possession of the remaining three floors and

(iii) Until the date of vacation, the petitioner shall pay the monthly rent as fixed under the lease deed to the Bank.

9. The applications, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

11th April, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition No.8969 of 2018
(per VRS, J.)



11th April, 2018.
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