

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.11994 of 2018

ORDER: (*per Hon'ble Sri Justice Sanjay Kumar*)

Prayer of the petitioner company in this case reads as under:

“For the reasons stated in the above accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an order, writ or direction more particularly in the nature of a writ of *Mandamus* under Article 226 of the Constitution of India declaring the action of the 4th respondent in declaring the SOD account No 36401400000070 of the petitioner as a non performing asset, though no amount became overdue and the further action of the 4th respondent in taking recourse to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, by issuing a seizure notice in Ref.No.3460/140-70/SARF/SEZ dated 20.3.2018 and possession notice dated 06.12.2017 issued by the 4th respondent as illegal, arbitrary, unjust, without jurisdiction and also offends Articles 14, 19(1)(g) and 21 of the Constitution of India without referring the account of the petitioner to the committee for stressed MSME accounts prescribed by the Reserve Bank of India in its Circular No.RBI/2015-16/338 dated 17.3.2016 for formulating corrective action plan and set aside the above said orders and refer the case of the petitioner for revival and rehabilitation to the committee constituted under the circular of the Reserve Bank of India RBI /2015-16/338 dated 17.3.2016 and pending formulation of corrective action plan, direct the respondents not to take any coercive steps against the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

By order dated 10.4.2018, this Court put on hold the seizure notice dated 20.3.2018 issued by the Syndicate Bank in relation to the stock-in-trade of the petitioner company. The said order was continued thereafter from time to time.

Sri P.Sridhar Reddy, learned counsel for the petitioner, would now inform this Court that insofar as the possession notice dated 06.12.2017 issued by the Syndicate Bank under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “SARFAESI Act”) read with Rule 8(1) of the Security Interest (Enforcement)

Rules, 2002, is concerned, the petitioner company has already approached the Debts Recovery Tribunal, Visakhapatnam by way of a Securitization Application filed under Section 17(1) of the SARFAESI Act. He would therefore seek leave of this Court to enable his client to approach the said Tribunal in relation to the seizure notice also which has been stayed by this Court.

Sri A.Krishnam Raju, learned counsel appearing for the Syndicate Bank, states that he has no objection to disposal of the Writ Petition on this ground.

The Writ Petition is accordingly closed leaving it open to the petitioner company to approach the jurisdictional Debts Recovery Tribunal assailing the seizure notice dated 20.3.2018 which is the subject matter of this Writ Petition. The interim order granted by this Court shall remain in operation for a period of four weeks from today to enable the petitioner to do so. We make it clear that all issues are left open and no observations are made on the merits of the matter. The jurisdictional Debts Recovery Tribunal shall therefore be at liberty to deal with the matter on its own merits and in accordance with law, uninfluenced by the grant of the interim order in this Writ Petition.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE T.AMARNATH GOUD

12th July, 2018

Note:

Issue CC in three days.

B/o

DR