

*THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

*THE HON' BLE MS. JUSTICE J. UMA DEVI

+WRIT PETITION No.12000 of 2018

%10.04.2018

Kumbala Raju S/o.Mallaiah,
R/o.New Bownepally, Secunderabad.

.. Petitioner

Vs.

\$ Vijaya Bank, Asset Recovery Management Branch,
Basheerbagh, Hyderabad, rep. by its Authorized Officer and others
.. Respondents

! Counsel for petitioner : Mr. O.Manohar Reddy

^ Counsel for respondents : Mr. E. Madan Mohan Rao

<GIST:

>HEAD NOTE:

? CASES REFERRED : ----



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WRIT PETITION No.12000 of 2018

ORDER: (Per V.Ramasubramanian, J)

Aggrieved by an order passed by the Chief Metropolitan Magistrate under Section 14 of the Securitization Act, 2002, the lessee in respect of a property owned by the borrower has come up with the above writ petition.

2. Heard Mr. O.Manohar Reddy, learned counsel for the petitioner. Mr. E.Madan Mohan Rao, learned counsel takes notice for the 1st respondent Bank.

3. As against the measures taken under Section 13(4) of the Act, the petitioner has already filed an appeal in S.A. No.539 of 2016 which later got renumbered as S.A. No.1157 of 2017. In the said appeal, the Tribunal originally passed an interim order on 17.01.2017, which was also directed to be continued by a further order on 05.06.2017 and 26.07.2017. By this interim order, the Tribunal permitted the Authorized Officer to proceed with the sale, but not to confirm the sale. The Tribunal also gave protection to the petitioner from being evicted.

4. However, it appears that on 03.01.2018 the appeal filed by the petitioner was dismissed for non-prosecution. But, later the appeal was restored to file.

5. After restoration, the Authorized Officer has now moved the Chief Metropolitan Magistrate under Section 14 of the Act and obtained an order appointing an Advocate Commissioner to take physical possession of the property.

6. The question as to whether the interim orders passed during the pendency of the original proceedings stand restored or not, still

appears to lie in a grey area. In *Vareed Jacob v. Sosamma Geevarghese*¹, the Supreme Court made a distinction between ancillary orders and supplementary orders, some of which automatically get restored without a specific order being made and some do not. Though it is contended by Mr.E.Madan Mohan Rao, learned counsel for the 1st respondent Bank that the lease of the petitioner has already expired on 27.11.2017, the interim order of protection granted by the Tribunal was not limited to the date of expiry of the lease period. The interim order was till the disposal of the appeal. The appeal now stands restored and posted for final disposal. Therefore, at this stage, it may not be fair to invoke Section 14 of the Act.

7. Therefore, the writ petition is disposed of directing the respondents to put on hold the order of the Chief Metropolitan Magistrate passed under Section 14 of the Act, until the disposal of the appeal by the Tribunal and until the expiry of the time limit for challenging the order of the Debts Recovery Tribunal, in case the petitioner fails to succeed before Tribunal.

8. Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 10, 2018

KTL

¹ 2004 (2) KLT 649 (SC)