

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

WRIT PETITION No.15590 of 2018

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

Lalitha Nagar Colony Development and Welfare Association,
Pasumamula Village, Abdullapurnet Mandal, Ranga Reddy District, the
petitioner herein filed this Writ Petition with the following prayer:

“For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction on the part of Debts Recovery Tribunal-II at Hyderabad in SA.No.154 of 2018 in not passing orders in the Stay Petition filed by the Petitioner as illegal arbitrary unjust and its violation of Article-300-A of Constitution of India and consequently, to declare that the proceedings initiated by the Respondent No.1-Bank under Sections-13 and 14 of SARFAESI Act in respect of Lalithanagar Colony Plots together with structures thereon situated in Survey Nos.407, 408 and 412 situated of Pasumamula Village Hyderabad East Taluk, Ranga Reddy District, including taking physical possession as null and void till the disposal of the S.A.No.154/2018 before the Debts Recovery Tribunal-II, Hyderabad and pass such other order or orders as this Hon'ble Court may deems fit in the circumstances of the case and in the interest of justice.”

It is an admitted fact that the petitioner-association filed S.A.No.154 of 2018 under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the SARFAESI Act') before the Debts Recovery Tribunal-II, Hyderabad, wherein it also filed I.A.No.1847 of 2018 seeking stay of all further proceedings pursuant to taking physical possession of the I.A. schedule property. It appears that the Tribunal did not pass any order upon the aforestated I.A. and directed notice to the respondents. It is at this stage that the present Writ Petition was filed.

By order dated 27.4.2018, this Court directed as follows:

“Since the photographs filed by the petitioner shows that with the help of the police and JCB, certain works are undertaken in the property, which is the subject matter of the appeal under Section-17 of the Securitisation Act, there will be an interim direction to the respondent not to proceed further until the Tribunal takes up the application for stay and passes orders in one way or the other.”

Sri Maruti Jadav, learned counsel representing Sri B.S.Prasad, learned standing counsel for Oriental Bank of Commerce, would assert before this Court that taking advantage of the aforesaid interim order, the members of the petitioner-association wreaked havoc in the premises of the secured asset and caused damage not only to the fencing erected by the bank but also to the vehicles of the bank's contractor.

We are of the opinion that this aspect of the matter would also have to be considered by the Tribunal in the pending securitization application.

We are informed that the Tribunal is yet to pass orders in I.A.No.1847 of 2018 in S.A.No.154 of 2018. It is not open to the Tribunal to keep the securitization application pending indefinitely in the light of the statutory mandate of Section 17(5) of the SARFAESI Act, whereunder a time stipulation is put in place for disposal of the main securitization application itself. That being so, it is not open to the Tribunal to keep the I.A pending for such a long time.

The Writ Petition is accordingly disposed of directing the Debts Recovery Tribunal-II, Hyderabad, to forthwith take up I.A.No.1847 of 2018 in S.A.No.154 of 2018 for consideration on merits and dispose of the same in accordance with law expeditiously and, in any event, not later than 11.7.2018. Pending such disposal, the interim order dated 27.4.2018 shall remain in operation.

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

13th June, 2018
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