

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

WRIT PETITION NO.16484 of 2018

ORDER: (per SK,J)

The challenge in this Writ Petition is to the order dated 24.04.2018 passed by the learned Chief Judicial Magistrate – cum – Principal Senior Civil Judge, Nellore, in Orl.M.P.No.77 of 2018 in C.F.No.266 of 2018. The said petition was filed by the Indian Bank – respondent herein, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, for brevity), seeking to take possession of the secured asset in relation to the loan facility availed by the petitioner firm.

By order dated 01.05.2018, this Court took note of the fact that the Debts Recovery Tribunal, Visakhapatnam, had directed *status quo* to be maintained till 03.04.2018 vide its order dated 27.03.2018 passed in S.A.No.126 of 2018, and the said order was extended thereafter on 12.04.2018 until further orders. But, in the meantime, the Bank secured the impugned order under Section 14 of the SARFAESI Act. In that view of the matter, this Court granted interim suspension of the impugned order passed by the learned Chief Judicial Magistrate, Nellore.

We are of the opinion that during the subsistence of the *status quo* order, the Bank could not have moved an application under Section 14 of the SARFAESI Act and secured an order thereon for taking possession of the secured asset. On this short ground, the impugned order stands vitiated.

The Writ Petition is accordingly allowed setting aside the impugned order, but leaving it open to the respondent Bank to initiate measures afresh in accordance with law, as and when the occasion arises. The pending miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:06.07.2018

vs

