

HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.23661 of 2008

ORDER:

The petitioner seeks a Writ of Mandamus declaring the action of the 2nd respondent in issuing Notice dated 29.08.2008 under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI" Act) to the 3rd respondent against the property bearing Municipal No.11/138/D4 (New No.11/138/49) Medhar Bazar, Eluru Road, Gudivada, Krishna District, as illegal, arbitrary, without jurisdiction and consequently set aside the said notice.

2) Heard both sides.

3) While admitting the writ petition, this Court on 18.12.2008 passed an order in W.P.M.P.No.30854/2008 as follows:

"There shall be interim stay of Notice dated 29.08.2008, subject to the petitioner depositing half of the amount due to the Bank within a period of six weeks from the date of receipt of copy of this order."

4) Learned counsel for respondents 1 and 2 would submit that since the impugned notice was issued under Section 13(2) of the Act, the petitioner got a remedy under Section 13(3A) of the Act to make a representation or submit his objection against the impugned notice before the 1st respondent and without taking recourse of the same, the petitioner approached the Court and obtained interim order and requested the Court to direct the petitioner to avail the statutory remedy.

5) Learned counsel for petitioner would submit that if time is granted, the petitioner would approach the concerned authority under Section 13(3A) of the Act.

6) In view of the above respective submissions, this Writ Petition is disposed of giving liberty to the writ petitioner to take recourse under Section 13(3A) of the Act before the 1st respondent within four(4) weeks from the date of this order, in which case, the concerned authority of 1st respondent shall consider his representation/objection and pass an appropriate order on merits within four(4) weeks thereof and till such an order is passed, the interim order passed by this Court in W.P.M.P.No.30854/2008 shall continue, provided the petitioner has complied with the direction given in that order. No costs.

As a sequel, miscellaneous petitions if any, pending shall stand closed.

U. DURGA PRASAD RAO, J

Date: 12.09.2018

Note: Issue C.C by 14.09.2018.

(b/o)
scs