

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

WRIT PETITION No.16858 of 2018

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

The prayer of the petitioner in this case reads as under:

“ For the reasons stated in the accompanying affidavit, the Petitioner herein prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the Respondent in issuing Commissioner's warrant dated 22-03-2018 in respect of the Schedule of Property of House No.3-4-106/I/303, admeasuring extent by area of land by bulding1100 Sq. Fts, or 44 Sq. Yds in survey No.174, Block-I, Flat No.303, Situated at May Flower Park, Mallapur Village, Uppal Mandal, R.R.District and bounded by: NORTH: Corridor 4-6” Wide, SOUTH: Open to sky and 40' wide Road, EAST: Flat No. 302, WEST: Staircase of Property under the SARFAESI Act and violation of Fundamental Rights Guaranteed under the Constitution of India and consequently Set- aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. By order dated 02.05.2018, this Court granted interim stay of the order of the Chief Metropolitan Magistrate, Cyberabad, in Crl.M.P.No.183 of 2018 subject to the condition that the petitioner deposits Rs.5,00,000/- on or before 31.05.2018. This Court also made it clear that in the event the petitioner fails to deposit the said amount, the stay would automatically stand vacated. Thereafter, by order dated 24.07.2018, this Court took note of the submission made by Sri Ch.Siva Reddy, learned counsel for the Central Bank, the respondent herein, that the amount had not been deposited by the petitioner in terms of the aforestated order dated 02.05.2018 and observed that the order would automatically stand vacated by virtue of the default clause therein.

3. Sri Nageshwar Rao Pujari, learned counsel for the petitioner, fairly concedes that he has no grounds to attack the order passed by the Chief Metropolitan Magistrate, Cyberabad, in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. His only contention is that by letter dated 08.02.2018, the respondent Bank offered a One Time Settlement (OTS) to the petitioner, and in terms thereof, she deposited 25% of the settled amount, but the Bank is not willing to extend the time for compliance with the said settlement.

4. Perusal of the letter dated 08.02.2018, reflects that the Bank called upon the petitioner to visit the concerned branch and settle the account by depositing Rs.8,72,000/- in full and final settlement as against the total loan dues of Rs.11,24,221/- by 31.03.2018. The Bank further stated that in case she was unable to pay the entire amount by the said date, she had to pay an upfront amount of 25% of the aforestated sum at the time of sanction to consider her account under the scheme.

5. Sri Nageshwar Rao Pujari, learned counsel, fairly concedes that the petitioner did not make the full payment by 31.03.2018 but deposited 25% of the settled amount. He also concedes that she has no sanction letter from the Bank that the loan account was considered under the settlement scheme.

6. As the aforestated offer of OTS under the communication dated 08.02.2018 was not complete in itself in the event the petitioner failed to make the full payment by 31.03.2018 and

required a further sanction if she wanted to pay 25% upfront and the balance amount within six months thereafter, this Court finds no concluded settlement whereby the petitioner can assert any rights.

7. On the above analysis, the writ petition is found to be devoid of merit and it is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

Date: 07.08.2018
TJMR

T.AMARNATH GOUD, J

