

THE HON'BLE SRI JUSTICE SANJAY KUMAR  
AND  
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION NO.3852 of 2016

ORDER: (per SK,J)

This writ petition was filed assailing the order dated 22.01.2016 passed by the Debts Recovery Tribunal, Hyderabad, in I.A.I.R.No.142 of 2016 in S.A.No.261 of 2015. By the said order, the Tribunal opined that no irregularities were committed by the bank in taking action and therefore, there was no requirement to stay the taking over of possession by the Advocate-Commissioner pursuant to the order passed by the learned Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.3427 of 2015, in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

By order dated 28.03.2016, this Court took note of the submission made on behalf of the petitioner that only symbolic possession of the property had been taken but not its actual physical possession and accordingly directed the first respondent company not to take possession of the secured asset subject to the condition that the petitioner deposits a sum of not less than Rs.3,00,000/- in one or more than one instalment before 31.05.2016. In the event the petitioner failed to deposit this sum, liberty was given to the first respondent company to proceed further in accordance with law for realising its debt without further reference to this Court and without regard to the pendency of this writ petition.

Sri A.Bhaskara Chary, learned counsel for the petitioner, would state that the petitioner availed a house loan of Rs.10,00,000/- from the first respondent company on 29.03.2010 and fell in arrears of the equated

monthly instalments due to some problems. He further states that after the order was passed by this Court on 28.03.2016, the petitioner paid Rs.3,00,000/- by March, 2016 and again paid Rs.5,50,000/- on 31.05.2017.

Despite service of notice, the first respondent herein failed to enter appearance before this Court.

As S.A.No.261 of 2015 filed by the petitioner is still stated to be pending before the Debts Recovery Tribunal, Hyderabad, we see no reason to adjudicate this writ petition on merits. All issues would have to be resolved by the Tribunal in the first instance.

As the petitioner is stated to have complied with the conditional order passed by this Court on 28.03.2016 and there is no rebuttal of the petitioner's claim in this regard, the writ petition is disposed of directing the first respondent company not to proceed further on the strength of the order passed by the learned Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.3427 of 2015 pending disposal of S.A.No.261 of 2015, filed by the petitioner.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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P.KESHAVA RAO,J

Date:12.02.2018

GJ