

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

WRIT PETITION No. 18165 of 2018

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

Pupils Own Primary & High School, Secunderabad, the petitioner herein, assails the action of the Agrasen Co-operative Urban Bank Limited, the first respondent herein, in seizing the school property situated at H.Nos.12-1-1065 to 12-1-1068 and H.No.12-1-1010, North Lallaguda, Secunderabad, pursuant to the warrant dated 13.04.2018 issued by the learned Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.460 of 2016, in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

Heard Sri Podila Hari Prasad, learned counsel representing Sri K. Ramanjaneyulu, learned counsel for the petitioner-school, and Sri Rupendra Mahendra, learned counsel appearing for the Agrasen Co-operative Urban Bank Limited.

Sri Rupendra Mahendra, learned counsel, would point out that the Secretary and Correspondent of the petitioner-school is none other than the husband of the third respondent herein, the guarantor of the loan account, which is the subject matter of the SARFAESI proceedings.

We find it to be so from a bare perusal of the cause title. However, as we were informed that the petitioner-school has been running in the premises of the secured asset since a long time and it would have to make alternative arrangements so that the interest of the students is not adversely affected, we expressed the opinion that the respondent Bank should give some breathing time to shift the school to another premises.

Upon the suggestion made by this Court, Sri Rupendra Mahendra, learned counsel, put it to his client and informed this Court that the Bank would have no objection to the petitioner-school remaining in the premises until the end of July, 2018, subject to the condition that it files an undertaking before this Court that it would vacate the premises of the secured asset by the end of July, 2018. In terms of this offer, the Secretary and Correspondent of the petitioner-school filed undertaking affidavit dated 12.06.2018 before this Court seeking permission to run the school in the premises of the secured asset till 31.07.2018 and undertaking to vacate the premises on the day fixed by this Court without causing any difficulty to the Bank. He further undertook to handover possession of the premises to the Bank as per the direction of this Court on the date fixed without fail.

Though Sri Podila Hari Prasad, learned counsel, would state that this Court should permit the petitioner-school to remain in occupation of the premises till the auction thereof is conducted by the Bank, we are not inclined to accept the same, given the relationship between the Secretary and Correspondent of the petitioner-school and the guarantor. The Bank may not be in a position to secure a proper bid in the event the petitioner-school remains in possession of the premises of the secured asset.

We are therefore of the opinion that the petitioner-school should vacate the premises of the secured asset on 31.07.2018 as undertook by it earlier and agreed upon by both parties. The undertaking affidavit dated 12.06.2018 is taken on record. In terms thereof, the petitioner-school shall be permitted by the Bank to remain in occupation of the premises of the secured asset till 31.07.2018. The petitioner-school shall

vacate the premises of the secured asset on 31.07.2018 without any further plea for extension or any further order in that regard.

The petitioner-school shall also pay the rents of Rs.25,000/- per month for the months of June and July, 2018, to the first respondent Bank before vacating the premises on 31.07.2018. Needless to state, the Secretary and Correspondent of the petitioner-school is at liberty to participate in the auction in relation to the secured asset as and when undertaken by the Bank.

The writ petition is disposed of with the above directions. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

Date: 12.06.2018

JUSTICE SANJAY KUMAR

JUSTICE T. AMARNATH GOUD

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