

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

WRIT PETITION NO.18284 of 2018

ORDER: (per SK,J)

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

'For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a Writ declaring the action of the 1st respondent in trying to dispossess the petitioners from the shops in ground floor of the property situated in D.No.23-11-153 to an extent of 29-2/9, Eluru Bazar, R.Agraharam, Guntur Town, Guntur District, without notice on the petitioners and without giving an opportunity in pursuance of notices under section 13(4) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 without considering the orders dt. 16-2-2018 made in I.A.No.14/2018 and I.A.No.15/2018 in O.S.No.45/2018 and O.S.No.46/2018 respectively is illegal, arbitrary, violative of principals of natural justice and violation of Article 300-A of the Constitution of India and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

The petitioners claim to be tenants in the premises of the secured asset in relation to which proceedings have been initiated by the Canara Bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

Perusal of the affidavit filed in support of the writ petition demonstrates that the petitioners claim to have taken the subject shops on lease from the second respondent in the year 2007 but admit to the fact that it was only in the year 2016 that they asked the second respondent to execute a lease deed.

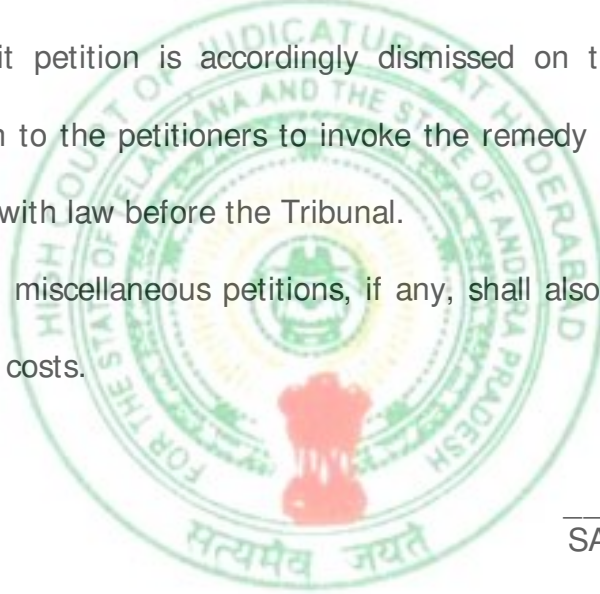
Sri G.V.S.Mehar Kumar, learned counsel for the petitioners, concedes that no such lease deed, if executed, had been placed on record

and would also admit to the effect that even if such a lease deed exists, it is an unregistered one.

As Section 17(4A) of the SARFAESI Act has been inserted in the statute with effect from 01.09.2016 vide Act No.44 of 2016 providing an efficacious alternative remedy to a person claiming tenancy or leasehold rights upon the secured asset, we are not inclined to entertain this writ petition or adjudicate the same on merits. Given the number of disputed facts that would arise in the context of the admitted pleadings of the petitioners, this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution cannot undertake resolution thereof.

The writ petition is accordingly dismissed on this short ground leaving it open to the petitioners to invoke the remedy available to them in accordance with law before the Tribunal.

Pending miscellaneous petitions, if any, shall also stand dismissed.
No order as to costs.



SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:27.06.2018

GJ