

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

WRIT PETITION NO.19453 OF 2018

ORDER

*(Per Hon'ble Sri Justice Sanjay Kumar)*

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

'For the reasons stated in the accompanying affidavit, the petitioners herein prays that this Honourable Court may be pleased to issue Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 1<sup>st</sup> respondent in filing petition under Section 14 of the SARFAESI Act before the Honourable Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Ongole and obtaining orders of attachment of properties of petitioner and guarantors, is totally arbitrary, irregular without issuing notice to the petitioner and obtaining orders under Section 14 of the SARFAESI Act in CrI.M.P.No.157 of 2018 dated 18.04.2018, as arbitrary, irregular, contrary to the provisions of Section 14 of SARFAESI Act as the balance is only Rs.3,00,000/- and odd and consequently set aside the orders passed in CrI.M.P.No.157 of 2018 dated 18.04.2018; and pass such other order or further orders as this Honourable Court deems fit and proper in the circumstance of the case.'

As Sri P.Ravi Shanker, learned counsel for the petitioner agency, stated on instructions that his client is ready to discharge its outstanding dues to the State Bank of India, the first respondent herein, given sufficient time and as the said bank is yet to issue a sale notice under Rule 9(1) of the Security Interest (Enforcement) Rules, 2002, we are of the opinion that an opportunity may be afforded to the petitioner agency to discharge its dues within the time stipulated hereunder.

The writ petition is accordingly disposed of directing the petitioner agency to ascertain the total outstanding dues payable by it to the first

respondent bank as on 20<sup>th</sup> August, 2018 including the accrued interest, penal interest and incidental expenses. The petitioner agency shall thereupon pay the said amount in two equal instalments. The first such instalment shall be paid on or before 20<sup>th</sup> July, 2018 and the balance amount shall be paid on or before 20<sup>th</sup> August, 2018. In the event the petitioner agency fails to make either of the aforestated payments, this order shall stand withdrawn and the writ petition shall stand dismissed.

We also make it clear that the petitioner agency would not be entitled to extension of time fixed by this Court under any circumstances. The first respondent bank shall not take any coercive measures until 20<sup>th</sup> July, 2018. In the event the petitioner agency makes the first deposit in terms of this order on or before the said date, the first respondent bank shall not take any coercive measures till 20<sup>th</sup> August, 2018. In the event the petitioner agency fails to clear the total outstanding dues on that date, the bank is at liberty to proceed in the matter in accordance with law.

The undertaking affidavit dated 20.06.2018 filed by the Proprietor of the petitioner agency, Padmanabhuni Sudhakar, is taken on record, whereunder he undertook to clear the total dues within the period of two months and agreed to vacate the premises which is the subject matter of the impugned order dated 18.04.2018 of the Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Ongole, passed in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Interest and Enforcement of Security Interests Act, 2002 (for brevity, 'the SARFAESI Act'), without further ado and without further reference to any Court order. We make it clear that in terms of the aforestated undertaking, in the event the petitioner agency fails to abide by the time stipulations mentioned in this order, it shall vacate the premises of the secured asset without further

reference to this Court or to the Magistrate under Section 14 of the SARFAESI Act.

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

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SANJAY KUMAR, J

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T.AMARNATH GOUD, J

20<sup>th</sup> JUNE, 2018

Sv

