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

WRIT PETITION NO.19975 of 2018

ORDER: (per SK,J)

The petitioner was aggrieved by the action of the United Bank of India in issuing possession notice dated 06.02.2018 in exercise of power under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*for brevity*, 'the SARFAESI Act') read with Rule 8 of the Security Interest (Enforcement) Rules, 2002, in relation to the secured asset belonging to the third respondent, the borrower.

The case of the petitioner was that he secured money decree dated 31.07.2017 against the third respondent-borrower in O.S.No.25 of 2017 on the file of the learned Principal Senior Civil Judge, Warangal, and execution proceedings in relation thereto are pending in E.P.No.328 of 2017 on the file of the said Court.

Heard Sri K.V.Bhanu Prasad, learned counsel for the petitioner and Sri Maheswara Rao Kumcham, learned counsel for the United Bank of India. Despite service of notice, the third respondent did not choose to enter appearance before this Court.

Sri K.V.Bhanu Prasad, learned counsel, would state that even before the suit was decreed, attachment before judgment was effected in relation to the secured property belonging to the third respondent *vide* order dated 20.01.2017 passed by the learned Principal Senior Civil Judge, Warangal, in I.A.No.36 of 2017 in O.S.No.25 of 2017. He would however concede fairly that mere attachment of the property before judgment would not amount to elevating the status of the petitioner to that of a secured creditor. As the United Bank of India enjoys that status and is empowered by the provisions of the SARFAESI Act, learned counsel would also admit that its dues would take priority over those of the petitioner.

The writ petition is accordingly disposed of permitting the United Bank of India to complete the recovery proceedings initiated under the SARFAESI Act for recovery of its dues. In the event any amount out of the sale consideration is left over after settling the loan account of the third respondent, the United Bank of India shall deposit the same to the credit of E.P.No.328 of 2017 on the file of the learned Principal Senior Civil Judge at Warangal.

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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T.AMARNATH GOUD,J

Date:17.07.2018

GJ