

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

WRIT PETITION No.20576 of 2018

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The petitioner in this case claims to be a tenant in possession of the subject property offered by M/s. JSR Agro Processing Private Limited, the third respondent, as a security for the loan facilities availed by it from the Canara Bank, the first respondent. His challenge is to the warrant dated 20.03.2018 issued by the learned Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Nellore, SPSR Nellore District, 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'), requiring the appointed Advocate Commissioner to take possession of the said secured asset on or before 23.04.2018. It is the contention of the petitioner that this warrant was not acted upon by the said date and therefore worked itself out.

Sri Dishit Bhattacharjee, learned counsel for the Canara Bank, would state that the petitioner has no locus to maintain this writ petition as he is not claiming tenancy rights under any written lease deed, let alone a registered lease deed. He would further state that the demand notice under Section 13(2) of the SARFAESI Act was issued by the bank as long back as on 31.01.2012 whereas the petitioner claims tenancy rights from a date long thereafter and therefore, Section 13(13) of the SARFAESI Act would have application on all fours. He would however concede that the warrant dated 20.03.2018 issued in CrI.M.P.No.63 of 2018 was not acted upon as the borrower, the third respondent, came

forward with a proposal to settle the loan account in question by way of a one time settlement and the same is still in process.

Given the admitted fact that the warrant issued by the Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Nellore, in CrI.M.P.No.63 of 2018 has worked itself out owing to efflux of time, we are not inclined to go into the issue of the locus of the petitioner or his alleged tenancy rights in relation to the secured asset.

The writ petition is accordingly closed taking note of the submission of Sri Dishit Bhattacharjee, learned counsel, in so far as the enforceability of the warrant dated 20.03.2018 issued by the learned Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Nellore, in CrI.M.P.No.63 of 2018 is concerned.

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

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Dt: 11.07.2018.
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