

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

WRIT PETITION No.21078 of 2018

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

The petitioner, a third party to the proceedings initiated by the Andhra Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the SARFAESI Act'), challenges the order dated 01.06.2018 passed by the learned Chief Judicial Magistrate-cum-Principal Senior Civil Judge, Nellore, in CrI.M.P.No.100 of 2018 in exercise of power under Section 14 of the SARFAESI Act.

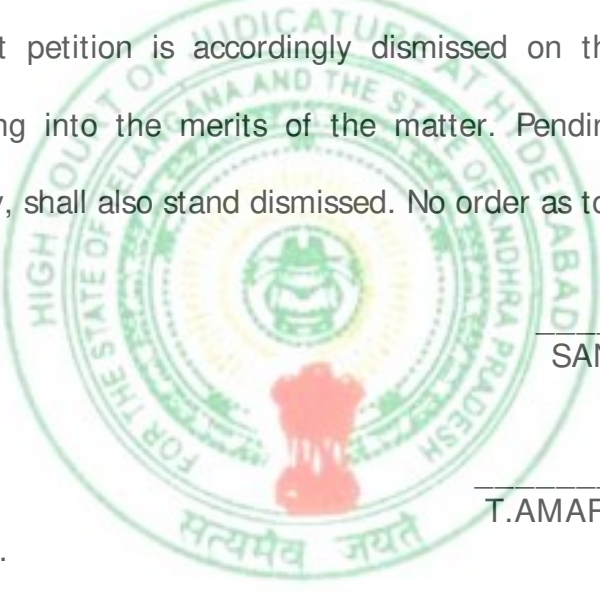
Sri V.Raghu, learned standing counsel for the Andhra Bank, would point out, on the strength of the counter-affidavit averments, that the petitioner is utterly lacking in *bonafides*.

It is an admitted fact that the petitioner sold the secured asset, presently claimed by the bank, under registered sale deed dated 03.07.2014 to the sixth respondent herein. Thereupon, the sixth respondent created a security interest over the said property in favour of the bank on 07.07.2014 in relation to her loan account with the said bank. It appears that the petitioner filed O.S.No.97 of 2018 against the sixth respondent and the bank seeking cancellation of the registered sale deed dated 03.07.2014.

Sri R.Siva Sai Swaroop, learned counsel representing Sri V.Siva Prasad Reddy, learned counsel for the petitioner, has no explanation to offer as to why the petitioner waited for a period of four years to seek cancellation of the sale deed in the event the sixth respondent did not abide by the terms and conditions of the sale. Further, perusal of the sale

deed does not reflect any of the so-called terms and conditions which are now cited by the learned counsel and also mentioned in the suit plaint. On the other hand, the sale deed records that the entire sale consideration was duly paid by the sixth respondent to the petitioner and that the possession was also delivered to her. It appears that the present writ petition has been filed only after the bank initiated proceedings under the SARFAESI Act. The petitioner therefore seems to be in collusion with the sixth respondent and is aiding her in defeating the proceedings initiated by the bank. We are of the opinion that the petitioner, who is clearly lacking in *bonafides*, is not entitled to maintain this writ petition.

The writ petition is accordingly dismissed on this short ground without entering into the merits of the matter. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR, J

T.AMARNATH GOUD, J

Dt: 09.08.2018.
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