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

<u>WRIT PETITION NOs.21207 AND 23859 OF 2018</u>

<u>C O M M O N   O R D E R</u>
(*Per Hon'ble Sri Justice Sanjay Kumar*)

The Bank of India filed W.P.No.21207 of 2018 seeking a direction to the District Magistrate, Ranga Reddy District, to implement his proceedings dated 29.06.2017 with police assistance by forcibly removing respondents 7 and 8 from the premises of the secured asset. W.P.No.23859 of 2018 was filed by the auction purchaser, who purchased the subject secured asset in the auction sale held by the Bank of India, aggrieved by its failure to deliver vacant physical possession thereof.

Heard Ms.T.Vidya Rani, learned counsel for the Bank of India, Mr.V.Ramesh Kumar, learned counsel for the auction purchaser, and Ms.Ajitha, learned counsel representing Mr.D.Raghuvulu, learned counsel for respondents 7 and 8 in W.P.No.21207 of 2018.

It is an admitted fact that after the District Magistrate, Ranga Reddy District, issued proceedings dated 29.06.2017 exercising power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*for brevity*, 'the SARFAESI Act'), the possession of the secured asset in question was delivered to the Bank of India. However, Ms.Vidya Rani, learned counsel, would state that upon such delivery and affixation of a lock on the premises of the secured asset, respondents 7 and 8 managed to encroach upon the said property again. It is in this context she would assert that the District Magistrate should again take over the possession of the secured asset with police assistance and redeliver it to the Bank of India.

This Court is of the opinion that when the proceedings dated 29.06.2017 issued by the District Magistrate, Ranga Reddy District, were duly acted upon and possession of the secured asset was delivered to the Bank of India, exercise of power by the District Magistrate in that instance worked itself out. In the event the Bank of India lost possession of the said asset thereafter, it is for it to file an application under Section 14 of the SARFAESI Act and again seek delivery of possession.

In M/S. SRI BALAJI CENTRIFUGAL CASTINGS V/s. M/S. ICICI BANK LIMITED[1], this Court held that it would be open to a secured creditor to file more than a single application under Section 14 of the SARFAESI Act and therefore, the Bank of India would not be estopped from invoking the provisions of the said Section merely because of the earlier invocation.

W.P.No.21207 of 2018 is accordingly disposed of permitting the Bank of India to file a fresh application under Section 14 of the SARFAESI Act before the Magistrate concerned for seeking delivery of the possession of the secured asset. This exercise shall be initiated expeditiously and in any event, not later than one month from today, as the Bank of India already conducted the auction sale of the secured asset but is yet to put the auction purchaser in possession.

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[1] W.P.No.18947 of 2018 dated 12.07.2018

In the light of this order, no further directions need be passed in W.P.No.23859 of 2018 which is accordingly closed.

Pending miscellaneous petitions in both the writ 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

8th AUGUST, 2018
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