

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

WRIT PETITION NO.24789 of 2018

ORDER: (per SK,J)

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

It is therefore prayed that this Hon'ble Court may be pleased to issue a writ of order/s more particularly one in the nature of Writ of Mandamus declaring the inaction of Respondent pursuant to representation dated 08.07.2018 of the petitioner, as being illegal, arbitrary and unconstitutional and consequently set aside the possession notice dated 07.02.2018 (issued under Rule 8(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002) and be pleased to pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

It is an admitted fact that the petitioner failed to repay the loan availed by him from Vijaya Bank, the respondent herein, leading to the said loan account being classified as a Non-Performing Asset. The bank thereafter initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), for recovery of its dues and the said proceedings have now reached the stage of the bank taking over possession of the secured asset pursuant to the order passed by the Magistrate concerned in exercise of power under Section 14 of the SARFAESI Act. At this stage, the petitioner seeks a writ of mandamus in relation to the representation dated 08.07.2018 made by him to the bank.

We are of the opinion that the petitioner has left it till too late in the day to make such a representation. In terms of the statutory scheme of the SARFAESI Act, the petitioner was entitled to make a representation in response to the demand notice issued by the bank under Section 13(2) of the SARFAESI Act. Having allowed the matter to proceed up to the

stage of taking over of possession of the secured asset, the petitioner has no legal right to insist upon his representation dated 08.07.2018 being considered by the bank.

Learned counsel appearing for Sri E.Madan Mohan Rao, learned counsel for the bank, would inform this Court that the petitioner's unit has been closed and there is no possibility of revival of the petitioner's business at this stage.

Be it viewed from any angle, we find no merit in this writ petition which is accordingly dismissed. However, we make it clear that the dismissal of this writ petition will not preclude the bank from considering the petitioner's representation dated 08.07.2018, if it so chooses.

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



SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:18.07.2018

GJ/PGS