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

WRIT PETITION No.24221 of 2017

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

The grievance of the UCO Bank, the petitioner, is with regard to the rejection of its miscellaneous petition, being Crl.M.P.SR.No.175 of 2017, filed in Crl.M.P.No.654 of 2016 by the learned Chief Metropolitan Magistrate, Cyberabad.

Smt.V.Dyumani, learned counsel for the petitioner bank, concedes that pursuant to the order passed by the learned Chief Metropolitan Magistrate, Cyberabad, in Crl.M.P.No.654 of 2016, 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'), possession of the secured asset was taken over by the Advocate Commissioner appointed for the said purpose and delivered to the bank. However, as the borrowers thereafter took over the possession of the said secured asset forcibly, the bank had to file the subject petition, being Crl.M.P.SR.No.175 of 2017, in Crl.M.P.No.654 of 2016 before the learned Chief Metropolitan Magistrate, Cyberabad. The learned Chief Metropolitan Magistrate refused to entertain the said petition, by docket order dated 03.03.2017, holding that it was not maintainable.

In the event the petitioner bank failed to secure the possession of the secured asset pursuant to the order passed in its earlier application under Section 14 of the SARFAESI Act or failed to protect the possession if so delivered, its remedy would be to file a fresh application under Section 14 of the SARFAESI Act and not to file a miscellaneous petition in the earlier application. As rightly pointed out by the learned Chief Metropolitan

Magistrate, once the possession was delivered to the bank, the earlier application worked itself out. That being so, no cause is made out to interfere with the docket order dated 03.03.2017 passed by the learned Chief Metropolitan Magistrate, Cyberabad, in Crl.M.P.SR.No.175 of 2017 in Crl.M.P.No.654 of 2016.

The writ petition is accordingly dismissed leaving it open to the petitioner bank to file a fresh application under Section 14 of the SARFAESI Act, if it so chooses.

Pending miscellaneous petitions, including the implead petition filed by the petitioner bank in I.A.No.2 of 2017 (W.P.M.P.No.37488 of 2017), shall also stand dismissed. No order as to costs.

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SANJAY KUMAR, J

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T.AMARNATH GOUD, J

Dt: 16.07.2018.
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