

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.31036 of 2018

ORDER: *(Per the Hon'ble Sri Justice Ramesh Ranganathan)*

The writ petition is based on the premise that the learned Senior Civil Judge, Nizamabad, who passed the order in CrI.M.P.No.42 of 2018 dated 16.07.2018 under Section 14(1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), lacked jurisdiction to entertain an application under Section 14 of the SARFAESI Act.

Section 14(1) of the SARFAESI Act enables the secured creditor, for the purpose of taking possession and control over any secured asset, to request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset is situated to take possession thereof.

The contention urged in this writ petition is that the Senior Civil Judge, Nizamabad, who passed the impugned order, is neither the Chief Metropolitan Magistrate nor the District Magistrate.

A Full Bench of this Court in *M/ s. T.R. Jewellery v. State Bank of India*¹ held that the nomenclature "Chief Metropolitan Magistrate", referred to in Section 14 of the SARFAESI Act, includes the Chief Judicial Magistrate in non-metropolitan areas; and, as such, the Chief Judicial Magistrate in a non-metropolitan area gets jurisdiction to entertain an application under Section 14 of the SARFAESI Act.

The erstwhile Government of Andhra Pradesh issued a notification in ROC No.510/SO-1/2002, in the exercise of the powers conferred on it

¹ 2016 (2) ALD 164

under Section 12 (1) of the Code of Criminal Procedure, 1973. The said notification was published in the A.P. Gazette on 05.07.2002. In terms of the said notification, the Senior Civil Judge-cum-Assistant Sessions Judge, mentioned in column 2 of the table therein, who were judicial Magistrates of First Class, were appointed to be the Chief Judicial Magistrates in their respective Districts shown in Column 3 thereof. At Sl.No.15 of the said notification is the Senior Civil Judge-cum-Assistant Sessions Judge, Nizamabad, who was appointed as the Chief Judicial Magistrate, Nizamabad.

As the appointment of the Senior Civil Judge, Nizamabad, as the Chief Judicial Magistrate of Nizamabad is in terms of the notification published in the A.P. Gazette dated 05.07.2002 and, in as much as in terms of the law declared by a Full Bench of this Court in M/ s. T.R. Jewellery¹, a Chief Judicial Magistrate, in a non-metropolitan area, falls within the nomenclature of “Chief Metropolitan Magistrate” under Section 14 of the SARFAESI Act, the contention that the Senior Civil Judge, Nizamabad, lacked jurisdiction, to entertain the application under Section 14(1) of the SARFAESI Act, is wholly misconceived.

As the Senior Civil Judge, Nizamabad, was competent to pass an order under Section 14(1) of the Act, we see no reason to entertain this writ petition filed in challenge thereto. The writ petition fails and, is, accordingly dismissed.

Miscellaneous Petitions pending, if any, shall also stand dismissed.

There shall be no order as to costs.

(RAMESH RANGANATHAN, J)

Date: 29.08.2018

(KONGARA VI JAYA LAKSHMI , J)

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