

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.33083 OF 2018

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri P.Rajesh Babu, learned counsel for the petitioner and Sri K.B.Ramanna Dora, learned counsel for the respondent-Bank and, with their consent, the Writ Petition is disposed of at the stage of admission.

The proceedings under challenge in this Writ Petition is the order passed by the Chief Judicial Magistrate, Rajamahendravaram, in CrI.M.P.No.240 of 2018 dated 07.08.2018 directing physical possession of the subject property to be delivered to the first respondent-Bank.

The sole ground, on which the said order is subjected to challenge in this Writ Petition, is that an affidavit, as required under the first proviso to Section 14 (1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the SARFAESI Act" for brevity), was not filed by the respondent-Bank; and the certified copies furnished to the petitioner do not reflect an affidavit having been filed.

When the matter came up earlier, Sri K.B.Ramanna Dora, learned counsel for the respondent-Bank, sought time to obtain instructions. Today, the learned counsel for the respondent-Bank has placed before us a copy of the affidavit received by him by E-mail from the first respondent-Bank. The said affidavit is the affidavit filed in terms of the first proviso to Section 14(1) of the

SARFAESI Act. A copy of the said affidavit has also been handed over to Sri P.Rajesh Babu, learned counsel for the petitioner.

Sri K.B.Ramanna Dora, learned counsel for the respondent-Bank, would further state that, in terms of the OTS proposal made by the Bank, the petitioner was given time till 30.09.2018 to make an offer for an OTS proposal; and no such offer has been received from the petitioner even as on date.

As it is evident that an affidavit was filed by the first respondent-Bank, in support of the petition filed by them under Section 14 of the SARFAESI Act, the petitioner's complaint, of such an affidavit not having been filed, necessitates rejection.

As this is the sole ground on which the proceedings of Magistrate, under Section 14 of the SARFAESI Act, is questioned, the Writ Petition is liable to be, and is accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

1st October 2018
RRB