

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.33950 OF 2018

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

The relief sought for in this Writ Petition is for a mandamus to direct the first respondent-Bank to provide one year's time to the petitioner to vacate the premises without disturbing or completing other formalities against respondents 2 and 3; and to refund the refundable deposit of Rs.1,00,000/- after recovery of the loan amount from the account of the petitioner.

The petitioner claims to be the tenant of the shop in the subject premises at Dhobi Ghat, Masab Tank, Hyderabad, which belongs to the third respondent. Proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the SARFAESI Act" for brevity) were initiated against respondents 2 and 3 by the first respondent-Bank and, eventually, a notice was served on the petitioner, by the officials of the first respondent-Bank, under Section 14 of the SARFAESI Act.

When we asked Sri G.Udaya Bhaskara Rao, learned counsel for the petitioner, whether the lease, allegedly executed in the petitioner's favour, was registered; and whether the said lease deed was executed prior to the date on which the subject property was mortgaged by respondents 2 and 3 in favour of the first respondent, learned counsel for the petitioner would submit that the lease was oral; and the lease, entered into between the parties, has not been registered. The writ affidavit does not disclose the

date from which the petitioner was inducted into the subject premises as a lessee. The proceedings initiated by the first respondent-Bank, for taking possession of the property, is pursuant to an order passed by the Chief Metropolitan Magistrate, Hyderabad in CrI.M.P.No.5987 of 2018 dated 10.08.2018. As the petitioner has not been able to show any statutory right of his being violated, by the action taken by the first respondent-Bank against respondents 2 and 3, we see no reason to interfere. It is not for this Court, in proceedings under Article 226 of the Constitution of India, to grant time to an alleged tenant to vacate the subject premises, and any such request can only be made by the petitioner to the first respondent-Bank.

Leaving it open to the petitioner to do so, the Writ Petition fails 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)

20th September 2018
RRB