

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

Writ Petition No.36749 of 2018

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri D.Narendra Naik, learned counsel for the petitioner and Smt. V.Dyumani, learned Counsel for the 1st respondent-bank. With their consent, the Writ Petition is disposed of at the stage of admission.

The petitioner has invoked the jurisdiction of this Court seeking a *mandamus* to the 1st respondent not to take coercive steps to evict the petitioner from the subject premises on the ground that such action on their part would violate the petitioner's rights under Article 300A of the Constitution of India, besides violation of Rule 8(6) of the SARFAESI Rules, 2002; and that such action is contrary to the law declared by the Supreme Court in ***Harshad Goverdhan Sondhagar vs. International Assets Reconstruction Company Limited***¹.

The petitioner claims to be in physical possession of the subject premises pursuant to a lease granted in their favour by the 2nd respondent. It is, however, admitted that no registered lease deed was executed with respect to the subject property. The petitioner's claim to be in possession is under an unregistered lease agreement said to have been entered into by them with the 2nd respondent. While it is debatable whether the petitioner can disable the respondent-bank from taking possession of the subject property, under Section 14 of the Securitization and

¹ (2014) 6 SCC 1

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'), on the basis of an unregistered lease agreement, it is unnecessary for us to dwell on this issue, as the authorized officer and the Senior Manager of the petitioner company has now filed an affidavit (under USSR No.82176/2018 dated 11.10.2018) undertaking to vacate the premises, and hand over vacant possession to the 1st respondent on 31.03.2019; to deposit the rentals due to the 2nd respondent in the account of the 1st respondent during the said period i.e. October 2018 till March, 2019 subject to the 1st respondent providing the account details for depositing the rentals; and not to object to the respondent taking possession of the subject premises on 31.03.2019. The petitioner requests that their possession of the premises be protected till 31st March, 2018, and this fact be informed to the purchaser of the property in the event of its sale by the 1st respondent before 31st March, 2018; and that an Officer of the 1st respondent be present to take over physical possession of the premises on 31.03.2019.

Smt. V.Dyumani, learned counsel for the 1st respondent-bank, would submit that, in the light of the undertaking now furnished by the petitioner, the respondent-bank would not taken coercive steps to dispossess the petitioner till 31.03.2019, subject to their abiding by their undertaking, and compliance of the conditions stipulated in the undertaking affidavit now submitted to this Court.

In the light of the submissions of Smt.V.Dyumani, learned counsel for the respondent-bank, suffice it to place the contents of

the undertaking affidavit filed by the petitioner on record; and to record the submission, urged on behalf of the respondent-bank, that no coercive steps would be taken to evict the petitioner till 31.03.2019 on their compliance of the conditions stipulated in the undertaking affidavit.

Since the cause in the Writ Petition no longer survives, the writ petition is, accordingly, closed. No order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

RAMESH RANGANATHAN, J

KONGARA VIJAYA LAKSHMI, J

Date: 11.10.2018
BSS

