

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**  
**WRIT PETITON Nos 43478 and 43480 of 2018**

**COMMON ORDER:**

Since the petitioners in both writ petitions challenged the similar impugned notice, these writ petitions are being disposed of by way of common order.

These writ petitions are filed challenging the notices dated 22-11-2018 issued by the 3<sup>rd</sup> respondent, wherein and whereby the petitioners were asked to handover the possession of Flat No.A-2, 1<sup>st</sup> floor of Sri Amma Bhagavan Apartments, Flat No. 4 (504), 4<sup>th</sup> floor, Flat No.4 (402), 3<sup>rd</sup> floor, Flat No.2 (502), 3<sup>rd</sup> floor and Flat No.4 (304), 3<sup>rd</sup> floor of the S.V.R.Sowdham Apartments Gunupudi, Bhimavaram, West Godavari District respectively.

Learned counsel for the petitioners submits that against the proceedings initiated under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ( for short “the SARFAESI Act”), the petitioners have approached the Debt Recovery Tribunal (DRT) and the DRT ordered notices to the 3<sup>rd</sup> respondent. But the 3<sup>rd</sup> respondent without responding to the said notices, issued the impugned notices and that the petitioners are bonafide purchasers of the said Flats. As such, the petitioners cannot be evicted.

On the other hand, learned Assistant Government Pleader for Revenue submits that in pursuance to the

proceedings initiated under SARFAESI Act, the 3<sup>rd</sup> respondent has issued impugned notices.

In this case, it is to be seen that the bank which initiated proceedings under Section 14 of SARFAESI Act is not made as party to the writ petitions. More so, the DRT has only issued notices in the stay petition, but no stay orders are granted. Learned counsel appearing for the IDBI bank, though not made as party, produced a copy of letter submitted by the petitioners in WP.No.43480 of 2018 on 11-10-2018 saying that they will vacate the premises by 31-10-2018.

In this case, it is to be seen that the bank is not made as party. Already the matter is pending before the DRT. It is not the case of the petitioners that the stay petition has not taken-up by the DRT. The stay application has been taken-up and notices were also ordered. Learned counsel for the IDBI bank submits that subject property is under mortgage and original documents are also with the bank.

In view of the facts and circumstances of the case, I do not see any reason to entertain the writ petitions and accordingly, the same are dismissed. As a sequel to the disposal of these petitions, miscellaneous petitions, if any, pending shall stand closed.

**A.RAJASHEKER REDDY,J**

30-11-2018

Note:  
Issue CC today.  
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