THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHAVA RAO

WRIT PETITION NO.42500 of 2017

O R D ER
(per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner Rice Mill reads as under:

> For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue an order, direction or writ, more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in taking possession of immovable property i.e. petitioner mill under panchanama dt.14.09.2017 detailed in inventory as illegal, arbitrary, contrary to the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the Security Interest (Enforcement) Rules, 2002, and also violative of Principles of Natural Justice and null and void and consequently direct the 1st respondent to redeliver the possession of the mill to the petitioner and direct the 2nd respondent to furnish the up to date account pertaining to loan account bearing No.31557953551 and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

Sri V.Sudhakar Reddy, learned counsel for the petitioner Rice Mill, would state that pursuant to the panchanama dated 14.09.2017, the possession of the Rice Mill was taken by the bank forcibly.

Sri Maruthi Jadhav, learned counsel representing Sri B.S.Prasad, learned counsel for the State Bank of India, would however dispute this but would fairly admit that the aforestated action was initiated by the bank on the strength of the demand notice issued by the bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act'), on 31.10.2013. He would further state that the said demand notice finds mention in the panchanama also but the same ceased to be operative owing to later developments and was succeeded by demand notice dated 31.10.2015. He would therefore concede that the action taken by the bank on the strength of the superseded demand notice dated 31.10.2013 would be irregular and that is the reason why the State

Bank of India has now decided to initiate action afresh in accordance with the due procedure prescribed under the SARFAESI Act for taking over possession of the Rice Mill which was offered as security by the petitioner Rice Mill for availing loan facilities.

Recording the said submission, the writ petition is allowed directing the State Bank of India to restore possession of the Rice Mill to the petitioner. This order shall however not preclude the bank from initiating action afresh for taking over possession of the said secured asset in accordance with the procedure prescribed under the SARFAESI Act.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

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SANJAY KUMAR,J

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P.KESHAVA RAO,J

Date:29.01.2018

<u>Note:</u>
Furnish C.C. in three days.
(B/o) PGS