

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU**

Writ Petition No.39680 of 2017

ORDER (per Hon'ble Sri Justice Sanjay Kumar):

Challenge in this writ petition is to the docket order dated 30.10.2017 passed by the Debts Recovery Tribunal-1, Hyderabad, in I.A. No.2434 of 2017 in S.A. No.343 of 2017.

By the said order, the Tribunal granted interim stay of further proceedings pursuant to the possession notice dated 19.06.2007 issued by the Indian Overseas Bank subject to the petitioners depositing 30% of the outstanding balance mentioned in the possession notice in two equal instalments – the first instalment of 15% of the amount was to be deposited within one week from the date of the order and the second instalment of 15% was to be deposited within two weeks thereafter. The Tribunal also made it clear that failure to comply with the making of either of the aforestated deposits would entail the interim stay standing vacated and permitted the Bank to proceed further as per the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the SARFAESI Act'), and Rules framed thereunder.

Aggrieved by the conditions imposed by the Tribunal in relation to the grant of stay, the petitioners filed the present writ petition. No interim orders were granted in this writ petition. In the meanwhile, as the petitioners failed to comply

with the conditions imposed, the Bank seems to have proceeded further in the matter.

Sri B. Harinath Rao, learned counsel for the Bank, would state that the bank thereafter approached the Magistrate concerned and secured an order for delivery of possession of the secured property under Section 14 of the SARFAESI Act and the actual physical possession of the secured property has also been taken over.

In the light of the aforestated developments, the conditional order under challenge no longer survives for consideration on merits. It is for the petitioners to pursue the securitization application already filed by them.

The writ petition is accordingly dismissed leaving all issues open. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR, J

D.V.S.S. SOMAYAJULU, J

Date: 13.03.2018

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