

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.1758 of 2019

ORDER: (per SK,J)

By way of this writ petition, the petitioner assailed the action of the Small Industries Development Bank of India (SIDBI), Hyderabad, in issuing letter dated 10.01.2019. Therein, reference was made to the demand notice dated 28.08.2018 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), whereby he was called upon to pay Rs.1,72,05,267/- together with interest and other monies towards repayment of the dues outstanding against the financial assistance sanctioned to M/s.Navanidhi Electronics Private Limited. By the letter dated 10.01.2019, the petitioner was called upon him to handover peaceful possession of the secured assets owing to his failure to make the payment.

2. By order dated 31.01.2019, this Court granted interim stay of all further proceedings initiated by the bank subject to the condition that the petitioner deposited a sum of Rs.30,00,000/- within four weeks.

3. We are informed that the petitioner has complied with the aforestated condition, albeit with delay of one day.

4. Sri M.V.S.Prasad, learned counsel for the SIDBI, would inform this Court that the bank would follow the due procedure and that the petitioner need not apprehend any forcible dispossession. He placed before this Court the affidavit dated 24.07.2019 filed by the authorised officer of the SIDBI, Hyderabad, wherein he stated that the bank would

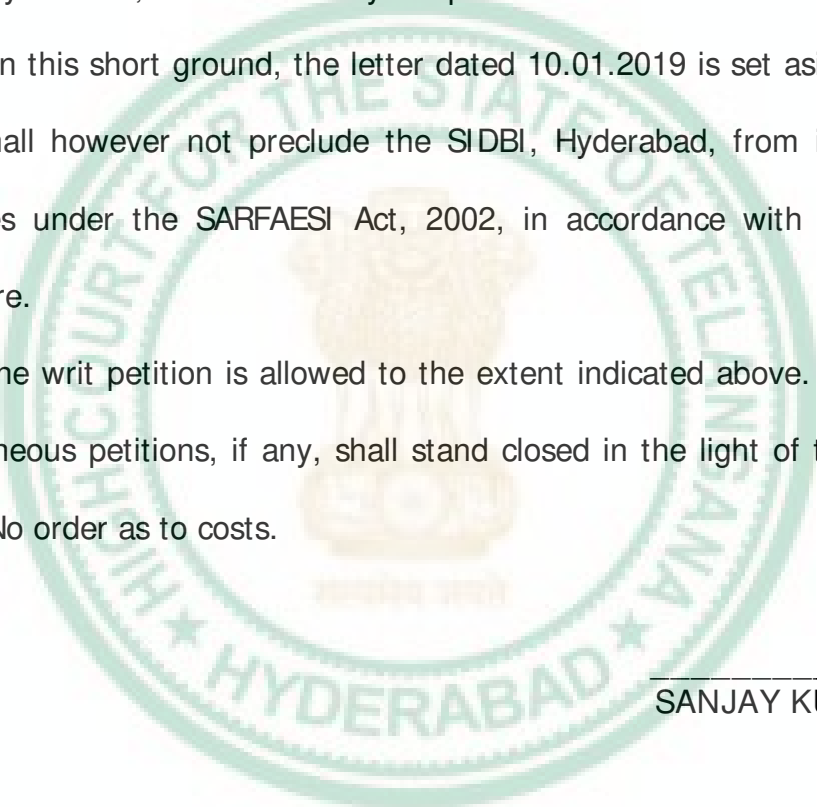
not dispossess the petitioner forcibly and would abide by the due process of law.

5. The aforestated undertaking apart, we may also note that the impugned letter dated 10.01.2019, which purports to be a possession notice, is not in conformity with the prescribed format. Appendix IV to the Security Interest (Enforcement) Rules, 2002, provides the format for issuance of a possession notice under Rule 8(1) of the said Rules.

6. Bare perusal of the letter dated 10.01.2019 demonstrates that the SIDBI, Hyderabad, did not abide by the prescribed format.

7. On this short ground, the letter dated 10.01.2019 is set aside. This order shall however not preclude the SIDBI, Hyderabad, from initiating measures under the SARFAESI Act, 2002, in accordance with the due procedure.

8. The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:30.07.2019

GJ