

HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
HONOURABLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.6703 of 2019

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

The petitioner assails the order dated 11.01.2019 passed by the learned Chief Metropolitan Magistrate, Cyberabad, in CrI.M.P.No.40 of 2019, which was passed in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. It is the case of the petitioner that pursuant to the aforesaid order, respondent No.5 Advocate-Commissioner seized her house property without putting her on prior notice and put a lock thereon. It is her further complaint that all her movables and properties are under seizure owing to this action.

3. Heard Sri Mummaneni Srinivasa Rao, learned counsel for the petitioner, and Sri Maruti Jadhav, learned counsel representing M/s Pearl Law Associates, learned counsel for the State Bank of India.

4. The petitioner claims that respondent No.4 herein played a fraud upon her and secured her signatures, promising to dispose of the subject house property, but on the strength thereof, he obtained a loan and mortgaged her house property with the State Bank of India.

5. This claim of the petitioner falls to ground in the light of the registered sale deed bearing document No.3500 of 2016 dated

24.3.2016, whereby the petitioner along with her major son and major daughter transferred the right, title and interest in the subject residential property in favour of respondent No.4.

6. Sri Maruti Jadhav, learned counsel, would assert that it was on the strength of this transfer of title that respondent No.4 created a security interest in the said residential property in favour of the bank when he availed loan facilities from it.

7. Sri Mummaneni Srinivasa Rao, learned counsel, is unable to offer any explanation as to the execution of this registered document.

8. It is not open to the petitioner to claim that respondent No.4 merely obtained her signatures when the registration of the document would necessarily involve her going to the office of the Sub-Registrar concerned.

9. The fundamental claim of the petitioner in this case as to fraud therefore stands utterly demolished. However, as it is stated that the petitioner's movables and properties are still lying within the premises of the seized residential property, which is under lock and key, we deem it appropriate to permit the petitioner to address a letter to the State Bank of India, Kolhapur Branch, Kolhapur, viz., respondent No.2, furnishing her address details and also her mobile number requesting return of her movables and properties which are still lying within the seized residential property. Upon receipt of the said communication, respondent No.2 bank shall fix a date for returning the petitioner's movables and properties to her and inform

the petitioner of the date on which she would be required to come to the seized residential property for taking return of her movables and properties.

10. The Writ Petition is disposed of with the aforestated direction.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this order. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE P.KESHAVA RAO

24th July, 2019

Note:

Issue C.C. in three days.

B/o

dr

