

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

WRIT PETITION No.9960 of 2019

ORDER: (per SK,J)

The petitioner assails the action of M/s.Can Fin Homes Ltd., Hyderabad, in not redelivering the secured asset, viz., Flat No.T-1, Chiris Homes, Municipal House No.1-24-115/T1, Venkatapuram, Alwal Village, GHMC, Alawal Circle, Malkajgiri Mandal, Ranga Reddy District. A consequential direction is sought to the respondent company to redeliver the said flat.

2. Perusal of the record reflects that the petitioner already approached the Debts Recovery Tribunal-II, Hyderabad, by way of S.A.No.9 of 2019 aggrieved by the measures initiated by the respondent company under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'). He filed I.A.No.50 of 2019 therein, seeking stay of all further proceedings including dispossession from the subject flat. A conditional interim order was granted by the Tribunal in the said I.A. on 03.01.2019. However, the petitioner was admittedly dispossessed from the flat prior to the passing of the aforesaid order on 27.12.2018 by virtue of the order dated 02.11.2018 passed by the learned Chief Metropolitan Magistrate, Cyberabad at L.B.Nagar, in CrI.M.P.No.522 of 2018, in exercise of power under Section 14 of the SARFAESI Act.

3. No interim orders were granted in this writ petition.

4. As the petitioner has already invoked the statutory remedy provided to him under the SARFAESI Act, we see no grounds to entertain

this writ petition. If the petitioner seeks redelivery of the subject flat, it is for him to take appropriate steps in the pending Securitization Application.

5. We are informed by Sri A.Jagan, learned counsel, that an application has already been filed by the petitioner in S.A.No.9 of 2019 seeking redelivery of the subject flat. If that be so, it is for the petitioner to pursue the said I.A. Leaving it open to him to do so, the writ petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR,J

P.KESHAVA RAO,J

Date:20.08.2019

smr

