

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

WRIT PETITION NO.15773 OF 2019

ORDER: (per SK,J)

The petitioner is a tenant in the premises of the secured asset, possession of which was secured by the Andhra Pradesh State Financial Corporation under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the SARFAESI Act'). As the petitioner had already approached the Debts Recovery Tribunal-I, Hyderabad, under Section 17 of the SARFAESI Act by way of S.A.No.160 of 2019 assailing the sale of the said secured asset by the Corporation, he filed I.A.No.1855 of 2019 therein seeking a direction to the Corporation to restore possession of the secured asset to him.

2. By order dated 16.07.2019, the Tribunal dismissed the I.A. Aggrieved thereby, he is before this Court.

3. Heard Sri G.K.Deshpande, learned counsel for the petitioner, and Sri R.V.Nagabushanam Rao, learned counsel for the Andhra Pradesh State Financial Corporation.

4. Perusal of the record reflects that the petitioner also sought amendment of his main prayer in S.A.No.160 of 2019 by way of I.A.No.1853 of 2019. This amendment application seems to have been ordered by the Tribunal. Thereby, the petitioner also subjected the taking over of possession of the secured asset by the Corporation to challenge in the main S.A. However, it is an admitted fact that the petitioner claims leasehold rights under an unregistered lease document. He would

therefore not be entitled to protection in terms of Section 17 of the Registration Act, 1908, and the law laid down by the Supreme Court in HARSHAD GOVARDHAN SONDAGAR V/ s. INTERNATIONAL ASSETS RECONSTRUCTION CO. LTD.¹.

5. That being so, we are not inclined to interfere with the docket order dated 16.07.2019 passed by the Tribunal holding to the effect that re-delivery of possession could not be granted unless and until it came to the conclusion that the Corporation did not follow the due procedure. As the Tribunal is yet to apply its mind to this aspect and render its findings, we are of the opinion that it would be wholly premature for us to go into the merits of the matter.

6. The writ petition is accordingly dismissed on this short ground. However given the peculiar facts of the case, we would remind the Tribunal of the mandate of Section 17 (5) of the SARFAESI Act and request it to dispose of the S.A. in terms of the said statutory mandate as expeditiously as possible.

7. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

P.KESHAVA RAO,J

Date: 07.08.2019
KL

¹ (2014) 6 SUPREME COURT CASES 1