

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE TWENTY FIFTH DAY OF JUNE
TWO THOUSAND AND TWENTY

PRESENT

**THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY
AND
THE HON'BLE SRI JUSTICE K. LAKSHMAN**

WRIT PETITION NO: 8957 OF 2020

Between:

1. M/s. Kwaliti Industries, Plot No. 96 and 96 at EPIP in IP, Pashamylaram, in Survey No.118 and 142, situated at APIIC-IALA, Pashamylarama Village and Grampanchayath, Patancheru Mandal, Medak District presently Sanga Reddy District Represented by its Proprietor Sri. Kothagundla Krishna S/o. Kothagundla Raja Rao Aged about 45 years, Occ. Business
2. Sri. Kothagundla Raja Rao, S/o. K. Nagendram Aged about 67 years, Occ. Business R/o. Flat No. 101, Sai Ragahvendra Nivas, Matrussri Nagar, Miyapur, Hyderabad - 500 049

...PETITIONERS

AND

1. Bank of Baroda, (Erstwhile Vijaya Bank) ROSAR Branch, 6-1-84, 1st Floor, Khusru Jung House, Secretariat Road, Saifabad, Hyderabad -500004, Represented by its Authorised Officer.
2. M/s. Hanuman Exports, Represented by its Proprietor Sri. Ravi Shankari Goud S/o. Sri. S. Arrjaiah R/o. H.No. 6-103/15/1, Post office Butting, Serilingampally, Hyderabad, Telangana sate- 500036

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ in the nature of Mandamus, declaring the Notice to Vacate Dt. 16-06-2020 issued by Respondent No.1 Bank issued as per Orders of the Honourable District Magistrate, Sanga Reddy District directing to vacate the schedule property within (15) days from the date of notice under provisions of the SARFAESI Act for taking physical possession of the schedule property and the consequent and consequently declare the proceedings of the Respondent No.1 Bank under the provisions of Section 14 of the Sarfaesi Act as illegal, arbitrary and against provisions of the SARFASI Act and the principles of natural justice and also oppose to Article 14 of Constitution of India and set aside the same

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in pursuance to the Notice to Vacate Dt. 16-06-2020 issued by Respondent No.1 Bank issued as per Orders of the Honourable District Magistrate,

Sanga Reddy District directing to vacate the schedule property within (15) days from the date of notice under provisions of the SARFAESI Act for taking physical possession of the schedule property till the disposal of the present Writ Petition

Counsel for the Petitioner: SRI G. K. DESHPANDE

Counsel for Respondent No. 1: SRI SRINIVAS CHITTURU

Counsel for Respondent No. 2: ---

The Court made the following: ORDER

**HON'BLE SRI JUSTICE A. RAJASHEKER REDDY
AND
HON'BLE SRI JUSTICE K.LAKSHMAN**

WRIT PETITION No.8957 OF 2020

ORDER: *(per Hon'ble Sri Justice A.Rajasheker Reddy, J)*

This writ petition is filed challenging notice dated 16.06.2020 issued by the 1st respondent Bank wherein and whereby the same is issued basing on the orders passed by the District Magistrate, Sangareddy, for vacation of the schedule property in the writ petition.

Heard Sri G.K.Deshpande, learned counsel for the petitioner and Sri Srinivas Chitturu, learned Standing Counsel for the 1st respondent.

Learned counsel for the petitioner submits that the petitioner is a tenant by virtue of registered lease deed bearing document No.1465/2-015 dated 29.01.2015 and without making the petitioner as a party before the District Magistrate in the proceedings under Section 14 of the SARFAESI Act, 2002, the present impugned order is passed, which is illegal. In support of his contention, he relied on the judgment of this court in WP No.2129 of 2020, dated 17.02.2020.

On the other hand, learned Standing Counsel for the 1st respondent submits that the 1st respondent Bank is not aware of the lease deed between the petitioner and the 2nd respondent, as such, writ petitioner could not be impleaded in the proceedings under Section 14 of the Act and that the mortgage is of the year 2010 and no permission was obtained from the Bank for leasing out the subject property.

In this case, it is to be seen that this Court has considered the similar issue in the judgment dated 17.02.2020 in WP No.2129 of 2020, wherein it is held as follows:

"12. In Harshad Govardhan v. International Assets Reconstruction Company Ltd.,¹ the Supreme Court has categorically held that the tenant in occupation of the property which is being proceeded with under the provisions of the SARFAESI Act ought to be impleaded in the proceedings under Section 14 of the Act, and that an adjudication must be obtained from the Chief Metropolitan Magistrate as to the validity of the tenancy."

In view of law laid down by this Court, the impugned notice as well as order passed under Section 14 of the Act, are set aside. However, it is open for the 1st respondent Bank to implead the petitioner in the proceedings under Section 14 of the SARFAESI Act. It goes without saying that the District Magistrate shall give notice and opportunity of hearing to the petitioner, before passing any order against him. After obtaining orders from the District Magistrate under Section 14 of the Act, the 1st respondent Bank can proceed against the petitioner, in accordance with law.

Accordingly, this Writ Petition is allowed to the extent indicated above. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

//TRUE COPY//

SD/-M.MANJULA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The District Magistrate, Sangareddy District.
2. The Authorized Officer, Bank of Baroda and another, (Erstwhile Vijaya Bank) ROSAR Branch. 6-1-84, 1st Floor, Khusru Jung House, Secretariat Road, Saifabad, Hyderabad -500004.
3. One CC to Sri G K Deshpande Advocate [OPUC]
4. One CC to Sri Srinivas Chitturu Advocate [OPUC]
5. Two CD Copies

MBC



HIGH COURT
DATED: 25/06/2020



ORDER
WP.No.8957 of 2020

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

BTM-6
8/7/2020