

**THE HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE MRS JUSTICE SUREPALLI NANDA**

WRIT PETITION No.25363 of 2022

ORDER: *(Per Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Ms.Hamsa Durga Ponnam, learned counsel for the petitioner.

2. Being aggrieved by notice dated 09.06.2022, issued by the Advocate Commissioner calling upon the petitioner to handover vacant physical possession of the schedule property within seven (7) days, the present Writ Petition has been filed.

3. From the materials on record, it is seen that petitioner had availed loan from the respondent, but subsequently defaulted in repayment. Respondent classified the loan account of the petitioner as Non-Performing Asset (NPA) and thereafter initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (briefly, 'SARFAESI Act' hereinafter). Finally respondent moved the Chief Judicial Magistrate, Chittoor (Andhra Pradesh) being CrI.M.P.No.13 of 2022. Chief Judicial Magistrate issued warrant of commission

on 13.04.2022 appointing Advocate Commissioner on 16.04.2022. Thereafter Advocate Commissioner issued the impugned notice. It is further seen that outstanding dues of the petitioner has been quantified by the respondent at Rs.1,16,86,915.95 as on 10.06.2020. Against the possession notice, petitioner has preferred securitisation application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal-II, Hyderabad (Tribunal), which has been registered as S.A.No.12 of 2021. The securitisation application is presently at the stage of filing of counter by the respondents. Meanwhile, after retirement of the then Presiding Officer, the Tribunal is without any Presiding Officer till today rendering the same non-functional. Hence the writ petition.

4. It is submitted that the schedule property is within the State of Telangana.

5. After hearing learned counsel for the petitioner and on due consideration, we are of the view that since petitioner has filed securitisation application under Section 17 of the SARFAESI Act before the Tribunal, it may pursue its remedy. Additionally, if the petitioner deposits 15% of the outstanding dues within a period of thirty (30) days from today, respondent shall not proceed further on the basis of impugned notice, dated

09.06.2022, which in any event would be subject to outcome of S.A.No.12 of 2021. However, if there is any default on the part of the petitioner in making the payment as above, it would be open to the respondent to proceed against the petitioner for recovery of outstanding dues in accordance with law.

6. This disposes of the Writ Petition. However, there shall be no order as to costs.

7. As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

UJJAL BHUYAN, J

SUREPALI NANDA, J

JUNE 14, 2022

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