

THE HON'BLE SRI JUSTICE A.V. SESA SAI
&
THE HON'BLE SMT JUSTICE SUMATHI JAGADAM

W.P. No.29128 OF 2023

ORDER: *(per A.V. Sesa Sai, J)*

Heard Sri N.Ashwani Kumar, learned counsel for the petitioner and Sri Balaji Medamalli, learned Standing Counsel for the Respondents-Bank, apart from perusing the material available on record.

2. In view of the default committed by the borrower, the respondents-bank authorities pressed into service the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'), and conducted auction on 10.04.2023 and 12.04.2023, wherein the petitioner in the present Writ Petition emerged as a highest bidder. It is not in dispute that the bank authorities also issued sale certificate on 15.04.2023. In the above background, the grievance of the petitioner is that despite lapse of considerable length of time, the respondent authorities are not taking steps for handing over the physical possession of the property to the petitioner, in terms of the auction conducted.

3. On instructions, it is submitted by Sri Balaji Medamalli, learned Standing Counsel for the respondents-bank that the respondents-bank authorities have already filed CrI.M.P.No.3439 of 2023 on 27.03.2023 under the provisions of Section 14 of the Act for the purpose of taking possession of the property and to hand over the same to the auction purchaser.

4. Learned counsel for the petitioner submits that the impugned action is contrary to proviso (2) of sub-Section (1) of Section 14 of the Act, so also sub-Rule (9) of Rule 9 of the Security Interest (Enforcement) Rules, 2002 (for short 'The Rules').

5. According to sub-Rule (9) of Rule 9 of the Rules, the authorized officer is required to deliver the property to the purchaser free from encumbrances known to the secured creditor on deposit of money as specified in sub-Rule (7). It is also important to note that the 2nd proviso of sub-Section (1) of Section 14 of the Act mandates that on receipt of the affidavit from the Authorized Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying with the contents of the affidavit pass suitable orders for the purpose of taking

possession of the secured assets within a period of 30 days from the date of application.

6. According to the learned counsel for the respondent-bank, Crl.M.P.No.3439 of 2023 came to be filed on 27.03.2023, before the Court of the I Additional Chief Metropolitan Magistrate, Visakhapatnam.

7. Having regard to the submissions of the learned counsel for the petitioner and the learned counsel for the respondents, this Court deems it appropriate to dispose of this Writ Petition, with a request to the Chief Metropolitan Magistrate, Visakhapatnam to pass appropriate orders in Crl.M.P.No.3439 of 2023, as expeditiously as possible, preferably within a period of one(1) month from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this case, shall stand closed.

A.V. SESA SAI, J

SUMATHI JAGADAM, J

Dated: 30.11.2023
Note : Issue C.C by 07.12.2023
B/o
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(per A.V. Sesa Sai, J)

Date:30.11.2023

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