(2015) 01 KAR CK 0175

In the Karnataka High Court

Case No : Writ Petition Nos. 913 to 914/2015 (GM-RES)

Tulip Data Centre Services Private Limited and Others — APPELLANT

Vs

IDFC Ltd. and Others — RESPONDENT

Date of Decision : 19-01-2015

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) — Section 13(4), 14

Citation : (2015) 01 KAR CK 0175

Hon'ble Judges : S. Abdul Nazeer, J.

Bench : Single Bench

Advocate : Udaya Holla, Senior Advocate for Arun Kumar K., for the Appellant; S.S. Naganand, for O.P. Agarwal, Advocates for the Respondent

Final Decision : Disposed off

Judgement

S. Abdul Nazeer, J.—The authorized officer of the first respondent-Bank took recourse to recover its secured debt from the petitioners under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (''Act'' for short) by issuing possession notice dated 3.9.2014. Thereafter, the authorized Officer moved an application before the District Magistrate for taking physical possession of the secured assets of the petitioners under Section 14 of the Act. The District Magistrate by his order at Annexure ''A'' dated 20.12.2014 gave protection to the first respondent-Bank to take physical possession of the secured assets of the petitioners. The petitioners have called in question the validity of the said order at Annexure ''A'' in these writ petitions.

2. I have heard Sri Udaya Holla, learned Senior Counsel appearing for the petitioner and Sri S.S. Naganand, learned Senior Counsel appearing for respondent No. 1-Bank.

3. It is not in dispute that the possession notice issued by the authorized Officer of the first respondent-Bank dated 3.9.2014 under Section 13(4) of the Act has

been challenged by the petitioners by filing an appeal in S.A. No.487/2014 before the DRT, Bangalore (Annexure ''G''). The notice at Annexure ''A'' is only consequential to the aforesaid possession notice under Section 13(4). Therefore, all the contentions raised by the parties in these writ petitions can also be urged before the DRT in the pending appeal. There is also a dispute as to whether the first respondent-Bank has taken physical possession of the property after the order passed by the District Magistrate at Annexure ''A''. This question can also be raised before the DRT.

4. At this stage, learned Senior Counsel appearing for the first respondent-Bank submits that the first respondent may be permitted to take inventory of the movable properties found in the petition schedule premises. Learned Senior Counsel appearing for the petitioners has no objection for the same. Therefore, the first respondent-Bank is permitted to take an inventory of the movables found in the schedule property in the presence of the representative/s of the petitioners.

5. Having regard to the facts and circumstances of the case, it is just and proper to direct the DRT to dispose of the main appeal within a time frame and to direct the petitioners and the first respondent-Bank to maintain status quo in respect of the property in question as on today till the disposal of the appeal.

6. Therefore, I direct the DRT to dispose of the appeal in S.A. No.487/2014 within 45 days from the date of receipt of a copy of this order. Till the disposal of the appeal, the parties are directed to maintain status quo in respect of the property in question as on today. The petitioners are restrained from removing any movable properties in the schedule premises subject to further order from the DRT. Similarly, the first respondent-Bank shall not sell the petition schedule property till the disposal of the appeal. All contentions of the parties are kept open. Writ petitions are disposed of accordingly.

7. In view of the disposal of the writ petitions as above, I.A. No.2/2015 does not survive for consideration. It is accordingly dismissed. No costs.