

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE SHANKAR NARAYANA

WRIT PETITION No.38133 of 2015

ORDER: *(Per Hon'ble Sri Justice R.Subhash Reddy)*

In this writ petition, the petitioners seek Mandamus to declare the action of the 3rd respondent in issuing proceedings in D.Dis.No.D7/e-15651/2015 dated 08.11.2015, whereby the 4th respondent was directed to take possession of the secured asset during pendency of the proceedings in O.A.No.597 of 2015 on the file of the Debts Recovery Tribunal, Visakhapatnam, as illegal.

Heard Sri Naram Nageswara Rao, learned counsel for the petitioners, Sri B.S.Prasad, learned counsel appearing for respondents 5 & 6 – Bank, and learned Government Pleader for Revenue appearing for respondents 3 & 4.

The question raised by the petitioners in this writ petition is no more *res integra* in view of the judgment of the Hon'ble Supreme Court in **Transcore Vs. Union of India**, in which it was held that the proceedings under the SARFAESI Act can be proceeded even during pendency of the proceedings initiated under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. Further, it is brought to our notice that when possession notice was issued under the provisions of the SARFAESI Act, the petitioners have challenged the same by filing S.A before the Debts Recovery Tribunal under Section 17 of the SARFAESI Act and, on dismissal of such application, they have carried the matter by way of appeal before the appellate Tribunal and the same is pending. Hence, we do not find any merit in this writ petition so as to admit at this stage when the appeal filed by the petitioners is pending consideration before the appellate Tribunal.

Accordingly, the Writ Petition is dismissed granting liberty to the petitioners to raise all their objections before the appellate Tribunal.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE R.SUBHASH REDDY

JUSTICE SHANKAR NARAYANA

27.11.2015

v v