

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.10112 OF 2015

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Sri T.Rajasekhara Rao, learned counsel for the petitioner, would fairly submit that a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) was issued on 23.07.2014 demanding repayment of Rs.11,43,126.08 ps; and, after issuing a notice under Section 13(4) of the SARFAESI Act, possession of the property was taken on 04.03.2015. Learned Counsel would, however, contend that the objections filed by the petitioner under Section 13(3)(a) of the SARFAESI Act, after possession was taken on 04.03.2015 pursuant to a notice issued under Section 13(4) of the SARFAESI Act, should be examined by the respondents, and they should be directed to pass orders thereon.

The representation, which the borrower is entitled to submit under Section 13(3)(a) of the SARFAESI Act, is after a notice is issued under Section 13(2) of the SARFAESI Act. As a notice, even under Section 13(4) of the SARFAESI Act, has since been issued and possession has already been taken on 04.03.2015, the only remedy available to the petitioner is to approach the Debt Recovery Tribunal under Section 17 of the SARFAESI Act. Any request for re-scheduling the loan can only be addressed to the bank and it would be wholly inappropriate for this Court, in proceedings under Article 226 of the Constitution of India, to take upon itself the task of either re-scheduling the debt or granting time for payment of the loan amount due to the bank.

Leaving it open to the petitioner to approach the respondent-Bank seeking extension of time, or to invoke the jurisdiction of the Debt Recovery Tribunal under Section 17 of the SARFAESI Act, the Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

9th April 2015

RRB