

**THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**
-
WRIT PETITION No.18727 OF 2015

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

This Writ Petition is filed seeking to declare the action of respondent No.2, in not delivering possession of the property i.e., H.No.3-3-68, Flat No.502, 2nd Floor, Horizon Sri Rama Enclave, Kachiguda, Hyderabad, admeasuring 1090 Square Feet, which is the subject matter of S.A.No.521 of 2014 pending before the Debts Recovery Tribunal, Hyderabad, to the petitioner, as illegal and arbitrary.

Respondent No.2, being the original owner of the property in question, has obtained loan from respondent No.1 – Bank, by giving property in question as security, but as he committed default in repaying the loan amount, respondent No.1 – Bank has initiated proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and issued Possession Notice, dated 27.06.2013, for taking possession of the property in question. Claiming to be an agreement holder of the property in question through respondent No.2, at the time of issuing Possession

Notice, petitioner has questioned the Possession Notice by way of filing an appeal in S.A.No.521 of 2014 before the Debts Recovery Tribunal, Hyderabad. In the aforesaid S.A., petitioner filed I.A.No.2288 of 2014 and in view of the allegation of the petitioner that pursuant to the agreement of sale entered into between him and respondent No.2, he has paid entire sale consideration, except an amount of Rs.7,00,000/-, the Debts Recovery Tribunal has passed order, dated 24.07.2014, directing respondent No.1 - Bank to defer all further proceedings, including taking possession of the property in question, on condition of petitioner depositing Rs.7,00,000/- within a period of two weeks from the date of such order directly with respondent No.1 - Bank. Pursuant to the order, dated 24.07.2014, petitioner has deposited Rs.7,00,000/-, but in spite of the same, as possession of the property in question is not delivered to him, he filed the present Writ Petition.

In this Writ Petition, the petitioner seeks to direct the respondents to deliver possession of the property in question in view of the compliance of the condition imposed in the order, dated 24.07.2014. The Possession Notice, dated 27.06.2013, is challenged in the aforesaid S.A., which is still pending. Merely because all further proceedings are deferred on condition of depositing

Rs.7,00,000/- pursuant to the order, dated 24.07.2014, petitioner is not entitled to seek delivery of possession at this stage. Inasmuch as S.A. is pending consideration before the Debts Recovery Tribunal, it is open to the petitioner to seek appropriate final orders in the aforesaid S.A., but even before adjudicating the S.A., wherein validity of the Possession Notice, dated 27.06.2013, is questioned, petitioner is not entitled to seek the directions as prayed for. Further, petitioner also seeks direction for delivery of movable properties, which are removed from the property in question, but in the absence of any material before this Court with regard to the movables, we are not inclined to accede to the request of the petitioner.

Leaving it open to the petitioner to move the Debts Recovery Tribunal for appropriate direction, the Writ Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

JUSTICE R.SUBHASH

REDDY

JUSTICE A.SHANKAR

NARAYANA

July 09, 2015
MD