

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA
WRIT PETITION No.29550 of 2015

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

In this writ petition, the petitioner seeks a direction by way of Mandamus to declare the action of respondent No.1 in taking steps to dispossess him from the secured asset, which is a residential house property bearing No.4-31-368, admeasuring 3050 sq. yards or 2550.41 sq. mtrs., situated at Gandhi Nagar area, opposite to Gandhi Nagar Bus stop of Kukunuru (V & GP) of West Godavari District, pursuant to the possession notice, dated 14.07.2015, as illegal and arbitrary.

The petitioner availed loan from the 1st respondent Bank and committed default in repaying the same. In view of availability of the securities furnished by the petitioner, the respondents have initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') and, after issuing necessary demand notice, possession notice is issued. As per the possession notice issued under Section 13 (4) of the Act, an amount of Rs.48,44,045/- was due as on 05.05.2015, in addition to

other incidental expenses. Questioning the possession notice, the petitioner approached the Debts Recovery Tribunal, Hyderabad (for short, 'the Tribunal') by filing S.A.No.380 of 2015 and the same is listed for hearing on 23.09.2015.

In this writ petition, it is the grievance of the petitioner that though the appeal filed by him is pending consideration before the Tribunal, the respondents have obtained orders under Section 14 of the Act from the concerned District Magistrate and are taking steps to dispossess him from the secured asset.

Heard learned counsel for the petitioner and learned counsel appearing for the respondent Bank.

With regard to the grounds urged, though the petitioner sought a declaration with regard to the validity of notice issued under Section 13 (4) of the Act, as it is the subject matter of appeal in S.A.No.380 of 2015 before the Tribunal and as the said S.A is directed to be listed for hearing on 23.09.2015, we do not wish to record any findings on the grounds raised by the petitioner. At the same time, in view of the pendency of the said S.A, we deem it appropriate to dispose of the writ petition directing the respondents not to take any coercive steps to

dispossess the petitioner from the secured asset, on condition of the petitioner depositing an amount of Rs.24,22,000/- within a period of four weeks from today. It is made clear that such amount to be deposited by the petitioner will be subject to final orders to be passed in S.A.No.380 of 2015. It is also made clear that if such amount, as directed above, is not deposited, it is open to the respondents to proceed further in accordance with law and take necessary steps.

With the above directions, the writ petition is disposed of. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

11.09.2015
v v