

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

WRIT PETITION No.28033 OF 2015

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

This Writ Petition is filed seeking to set aside the Possession Notice, dated 10.07.2015, issued by respondent No.1 – Bank.

Petitioner, wife of respondent No.2, is co-applicant along with respondent No.2 for the loan obtained from respondent No.1 – Bank. As respondent No.2 and the petitioner have defaulted in repaying the loan amount, respondent No.1 – Bank has initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') and issued impugned Possession Notice, dated 10.07.2015. In the impugned notice, it is stated that an amount of Rs.15,32,859/- is due in the account of the petitioner and respondent No.2 as on 30.11.2014.

It is submitted by the learned counsel for petitioner that there are disputes between the petitioner and respondent No.2, and as the flat in question is purchased with the 'Sthri Dhana' of the petitioner, the same is not liable for sale. It is further submitted that though there is a

remedy by way of filing a Securitisation Application under Section 17 of the Act, as much as there is no regular officer for the Debts Recovery Tribunal, Hyderabad, petitioner has approached this Court by filing the present Writ Petition. It is further submitted that without giving any prior opportunity or notice, respondent No.1 – Bank is trying to take possession of the secured asset i.e., Flat No.504, Fourth Floor, Block No.V with built up area of 1297 Square Feet in D.V. Township covered by Survey No.335/1, situated at Old Safilguda, Malkajgiri Circle and Mandal, Ranga Reddy District.

It is true that there is no regular officer as of now to the Debts Recovery Tribunal, Hyderabad, but it is stated that the Chairman of the Debts Recovery Tribunal, Calcutta, is in-charge of the Debts Recovery Tribunal, Hyderabad and he is holding the Tribunal at Hyderabad from 07.09.2015 to 11.09.2015.

In view of the availability of alternative remedy by way of filing a Securitisation Application under Section 17 of the Act, it is not necessary to examine the various claims made by the petitioner at this stage. In view of the apprehension of the petitioner, we deem it appropriate to dispose of the Writ Petition by directing the respondents to maintain *status quo* with regard to possession of the

secured asset covered by Possession Notice, dated 10.07.2015, for a period of two (2) weeks from today, during which period, it is open to the petitioner to approach the Debts Recovery Tribunal for seeking appropriate relief.

Subject to the above, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. No costs.

R. SUBHASH

REDDY, J

A. SHANKAR

NARAYANA, J

September 01, 2015

MD