

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

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WRIT PETITION No.41223 OF 2015
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ORDER: (Per Hon'ble Sri Justice R. Subhash Reddy)

This Writ Petition is filed questioning the order, dated 01.12.2015, passed in I.A.No.60 of 2015 in S.A.No.24 of 2015 by the Debts Recovery Tribunal, Visakhapatnam.

M/s. N.C.S. Sugars Limited has borrowed certain amount from respondent No.1 – Bank and the partnership Firm by name

'M/s. Narayanam Venkata Bangaru Chalamaiah and Sons' was one of the guarantors for such loan. In view of the default committed by M/s. N.C.S. Sugars Limited in repaying the loan amount, respondent No.1 – Bank has initiated measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (For short, 'the Act') and issued Possession Notice, dated 26.05.2014, showing the amount due as Rs.121,80,16,870.06 ps. as on 05.11.2013. M/s. N.C.S. Sugars Limited and M/s. Narayanam Venkata Bangaru Chalamaiah and Sons have questioned the securitisation measures initiated by respondent No.1 – Bank by way of S.A.No.153 of 2014, in which an interim order was passed on condition of depositing 30% of the amount claimed in the Possession

Notice, dated 26.05.2014, but such amount is not deposited and subsequently, the petitioner, who is the erstwhile partner of the Firm, in individual capacity, has filed the present S.A.No.24 of 2015, in which also, the Tribunal, by impugned order, dated 01.12.2015, imposed similar condition directing the petitioner to pay 30% of the amount claimed in the Possession Notice, dated 26.05.2014.

In this Writ Petition, it is submitted by Sri Ambadipudi Satyanarayana, learned counsel for the petitioner, that the partnership Firm is not the owner of the property in question and as the petitioner, who is an individual, is ceased to be a member of the Firm, there is no mortgage of the property in question, so as to proceed with the same under the Act.

It is not in dispute that earlier when securitisation measures were initiated by respondent No.1 - Bank, S.A.No.153 of 2014 was filed, in which, interim order was passed on condition of depositing 30% of the amount claimed in the Possession Notice i.e., Rs.40 Crores, but the same has not been complied with and during pendency of such appeal, the present appeal is filed by the petitioner, in individual capacity, claiming that he ceased to be a member of the Firm and as such, he is not liable to pay the amount due and the secured asset claimed by him cannot be sold.

In view of the pendency of S.A.No.24 of 2015, it is for the petitioner to establish his right at the stage of final disposal of such appeal. Further, the demand as per Possession Notice, dated 26.05.2014, is Rs.121,80,16,870.06 ps. and it is submitted that against the impugned order, petitioner has already filed a review petition. Hence, having regard to the reasons stated in the impugned order, we are not inclined to interfere with the same for more than one reason. However, it is open to the petitioner to pursue the review petition or to avail the remedy provided under Section 18 of the Act, if he is aggrieved.

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

REDDY, J

R. SUBHASH

A. SHANKAR

NARAYANA, J
December 18, 2015
MD