

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
And
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-
WRIT PETITION No.32053 of 2014

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

This Writ Petition is filed questioning the action of the respondent bank, in taking steps to take possession of the petitioner's residential flat, as illegal and arbitrary.

Sri S.U.V.Srinivas, learned counsel for the petitioner, states that, as the petitioner is a guarantor, the respondent bank should put the property of the borrower to sale first; and, if the amount realized is insufficient to discharge the entire debt, to then proceed against the property of the guarantor. The petitioner herein, along with the borrowers, filed S.A.No.626 of 2014 and, by its order dated 24.09.2014, the Debt Recovery Tribunal directed stay of all further proceedings on condition that the applicants in S.A.No.626 of 2014 deposited 30% of the liability due to the bank of Rs.65,78,924/-; 15% of the amount within two weeks from the date of the order and the balance 15% within three weeks thereafter. The respondent bank was directed to defer all further proceedings pursuant to Crl.M.P.No.3031 of 2014 dated 21.08.2014 till further orders.

The order of the Debt Recovery Tribunal has not been questioned by the petitioner herein before the Debt Recovery Appellate Tribunal. The order of the Debt Recovery Tribunal dated 24.09.2014 required the petitioner herein to deposit 15% of the amount due within two weeks i.e. by 08.10.2014, and the remaining 15% within three weeks thereafter i.e. by 24.10.2014. The petitioner herein has not paid a single rupee in compliance with the order of the Debt Recovery Tribunal.

It is always open to the respondent bank to choose which property should be proceeded against; whether it be the property of the borrower or that of a guarantor. The petitioner, having invoked the jurisdiction of the Debt Recovery Tribunal and having obtained an order, has neither complied with the said order, nor has he chosen to prefer an appeal

thereagainst. We see no reason, therefore, to exercise discretion under Article 226 of the Constitution of India to interfere.

The Writ Petition fails and is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

24th February, 2015.
Tsy