

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

WRIT PETITION No.29990 OF 2015

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

This Writ Petition is filed to declare the action of 1st respondent – Bank in taking steps to recover possession of the secured asset i.e., premises bearing No.843, MCH No.6-3-248/3/1A, admeasuring 1036.99 Square Yards situated at Road No.1, Banjara Hills, Hyderabad, pending I.A.SR.No.2867 of 2015 in S.A.No.55 of 2014 on the file of the 2nd respondent – Debts Recovery Tribunal, Hyderabad, as illegal and arbitrary.

Petitioner is the guarantor for the loan extended to the 3rd respondent by the 1st respondent – Bank. As the 3rd respondent defaulted in repaying the loan amount, the 1st respondent – 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 Possession Notice, dated 19.12.2013. Aggrieved by the same, petitioner has filed S.A.No.55 of 2014 before the Debts Recovery Tribunal, Hyderabad. In I.A.No.241 of 2014 filed in the said S.A., the Tribunal, by order, dated 23.01.2014, granted stay of all further proceedings pursuant to the Possession Notice, dated 19.12.2013, on condition of petitioner depositing 30% of the amount claimed in the Possession Notice within eight weeks from the date of such order. It is stated that the said condition is complied with and though the arguments were heard, in view of the change of Presiding Officer, the S.A. could not be disposed of. It is further stated that after new Presiding Officer has taken charge, the S.A. was listed on

07.07.2015 and as there was no representation for the petitioner, the S.A. was dismissed for default and immediately thereafter, petitioner has filed I.A.SR.No.2867 of 2015 for restoration of the S.A., but the same is pending consideration.

In this Writ Petition, it is the grievance of the petitioner that there is no regular Presiding Officer for the Debts Recovery Tribunal, Hyderabad, and when her application in I.A.SR.No.2867 of 2015 is pending consideration, it is not open to the 1st respondent – Bank to take steps to dispossess her from the secured asset.

We have perused the order, dated 23.01.2014, passed in I.A.No.241 of 2014 in S.A.No.55 of 2014 by the Debts Recovery Tribunal. It is submitted by the learned counsel for petitioner that the condition imposed in the said order is already complied with by paying 30% of the amount claimed in the Possession Notice. In view of the pendency of the application filed by the petitioner in I.A.SR.No.2867 of 2015, it is not desirable to go into the merits of the matter, but in view of the fact that the petitioner has already complied with the order, dated 23.01.2014, we deem it appropriate to dispose of the Writ Petition by directing the 1st respondent – Bank not to dispossess the petitioner from the secured asset till appropriate orders are passed in I.A.SR.No.2867 of 2015 by the Debts Recovery Tribunal, Hyderabad.

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

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

September 15, 2015

MD