

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

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WRIT PETITION No.22764 OF 2015

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

This Writ Petition is filed questioning the notices, dated 23.04.2015, issued by the 1st respondent – Bank in exercise of powers conferred under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act'), demanding Rs.128,46,189/- and Rs.87,42,529/-, which are due as on 21.04.2015 in the accounts of the petitioners.

It appears that almost with the identical relief as prayed for in this Writ Petition, petitioners have already filed W.P.No.30506 of 2013 and this Court, by order, dated 26.03.2014, while refusing to grant any directions to accept the claim of One Time Settlement (OTS), permitted the petitioners to approach the 1st respondent – Bank for consideration of their case for OTS and pursuant to the same, the petitioners have approached the 1st respondent – Bank to consider their case under OTS Scheme by making pre-deposit, but their claim was rejected.

In this Writ Petition, mainly it is contended by the

learned counsel for petitioners that once Recovery Certificate is obtained by the 1st respondent – Bank under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, it is not open to the 1st respondent - Bank to claim more amount without giving any calculations by exercising the powers conferred under the Act. It is also contended that once pre-deposit is accepted for OTS, the same cannot be rejected.

It is true that the 1st respondent – Bank has approached the Debts Recovery Tribunal and obtained Recovery Certificate, but if the amount as determined in the Recovery Certificate is not paid along with interest, it is always open to the 1st respondent - Bank to recover the outstanding amount in the accounts of the petitioners in exercise of the powers conferred under the Act. Hence, we do not find any merit in the first contention advanced by the learned counsel for petitioners. Equally, the other contention of the learned counsel for petitioners i.e., once pre-deposit is made to consider the claim of the petitioners for OTS and the same is accepted, the petitioners are entitled to OTS, as a matter of right, also cannot be accepted, since whether the claim of the petitioners fit into OTS Scheme or not, is a matter to be considered by the authorities concerned. Further, from a perusal of the counter affidavit filed by the 1st respondent - Bank, it is

clear that after rejecting the case of the petitioners for
OTS, pre-deposit made by the petitioners was returned.
Hence, we do not find any merit in this Writ Petition, more
so in view of the refusal of similar claim in W.P.No.30506
of 2013.

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

R. SUBHASH

REDDY, J

A. SHANKAR

NARAYANA, J

September 07, 2015

MD