

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

WRIT PETITION No.24245 of 2015

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

This writ petition is filed by the petitioner seeking *Mandamus* declaring the action of the 1st respondent-Bank in initiating simultaneous proceedings under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the NPA Act") to take possession of the secured assets, pending adjudication of O.A.No.525 of 2013 on the file of the Debts Recovery Tribunal, Visakhapatnam.

2. The 1st petitioner, which is a Proprietary concern doing business in rice milling, has availed cash credit facility from the 1st respondent-Bank and petitioner Nos.2 and 3 stood as guarantors for the said loan. At the time of sanctioning credit facility, the rice mill land and building bearing Door No.4-24 in R.S.No.48, Serinarasannapalem Village, Krishna District, belonging to petitioner No.2; and agricultural land in an extent of Ac.1.00, out of total extent of Acs.2.45 cents in R.S.No.565/2C in Veluru Village, Near Hanuman Junction, Krishna District, belonging to petitioner No.3, were given as security. As petitioner No.1 defaulted in repaying the loan amount, to recover the loan amount of Rs.1,11,65,391/-, which was due as on 31.12.2012 with subsequent interest thereon, the respondent-Bank has filed O.A.No.525 of 2013 before the Debts Recovery Tribunal,

Visakhapatnam. Subsequently, the 1st respondent-Bank has also initiated proceedings under the provisions of the NPA Act. After following the procedure contemplated under the provisions of the NPA Act, the 1st respondent-Bank has filed an application under Section 14 of the NPA Act before the 2nd respondent-Collector and District Magistrate, Krishna District, who inturn, passed orders vide Rc.H6/1777/2015, dated 09.06.2015, directing to take possession of the secured assets. At that stage, the petitioners have filed the present writ petition for the aforesaid relief.

3. It is the case of the petitioners that when once the secured asset, viz., an extent of Ac.1.00, out of total extent of Acs.2.45 cents in R.S.No.565/2C in Veluru Village, Near Hanuman Junction, Krishna District, is agricultural land, no steps can be taken against such land, as provided under Section 31(i) of the NPA Act.

4. The issue, while proceedings are pending before the Debts Recovery Tribunal, Visakhapatnam, in O.A.No.525 of 2013, no proceedings can be initiated under the NPA Act, is no more *res integra*, in view of the judgment of the Apex Court in *TRANSCORE vs. UNION OF INDIA*^[1], wherein the Apex Court has held that the secured creditor is allowed to choose one or more of the cumulative remedies i.e., either to proceed under the provisions of the Debts Recovery Tribunals Act, 1983 or to proceed under the NPA Act. Therefore, the first contention made by the learned counsel for petitioners cannot be countenanced.

5. As regards the other ground raised by the learned

counsel for petitioners that as the land in an extent of Ac.1.00, out of total extent of Acs.2.45 cents in R.S.No.565/2C in Veluru Village, Near Hanuman Junction, Krishna District, is agricultural land, the respondent cannot proceed against such land under Section 31(i) of the NPA Act, it is to be noticed that in the sanction letter for credit limit, vide Ref.No.1310(A), dated 2.3.2012, issued by the 1st respondent-Bank, it is clearly stated that the owner of the land has applied for conversion of the said Ac.1.00 cents of agricultural land into non-agricultural land.

6. When the matter is called for hearing, the learned Standing Counsel for the 1st respondent-Bank has produced a copy of the proceedings in D.Dis.(G).142/2012, dated 11.4.2012, issued by the competent authority and Revenue Divisional Officer, Nuzvid, permitting conversion of agricultural land into non-agricultural land, in exercise of powers under the provisions of the A.P. Agricultural Land (Conversion for Non-agricultural Purpose) Act, 2006.

7. In view of the order dated 11.4.2012 issued by the competent authority, the aforesaid extent of Ac.1.00 land cannot be said to be an agricultural land, as it has already been converted into non-agricultural land and, as such, the provisions of Section 31(i) of the NPA Act are not applicable to the said extent of land.

8. For the aforesaid reasons, we do not find any merit for grant of the relief sought in the writ petition.

9. Accordingly, this writ petition is dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

20.08.2015.

Msr

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[\[1\]](#) (2008) 1 SCC 125