

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

WRIT PETITION No.29812 OF 2015

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

This Writ Petition is filed seeking to set aside the measures initiated by the 1st respondent – Bank under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act'), for recovery of the arrears due in the loan account of the 2nd respondent, and further, to direct the 1st respondent - Bank to return the title deeds of the mortgaged properties belonging to the petitioner.

Mother of the petitioner is the guarantor for the loan extended to the 2nd respondent by the 1st respondent – Bank. As the 2nd respondent defaulted in repaying the loan amount, Possession Notice, dated 20.11.2009, under Section 13 (4) of the Act, was issued by showing the amount due as Rs.1,53,89,878/-. Aggrieved by the same, petitioner's mother has filed a Writ Petition and this Court has disposed of the same, granting liberty to approach the Debts Recovery Tribunal. Subsequently, sale notice was issued and the property was sold. Aggrieved by the same, petitioner's mother has filed another Writ Petition to set aside the sale and the same was dismissed by granting liberty to approach the Debts

Recovery Tribunal. Thereafter, petitioner's mother has filed S.A.No.109 of 2011 before the Debts Recovery Tribunal, Hyderabad and during pendency of the same, she died.

In this Writ Petition, it is the case of the petitioner that as his mother has already deposited Rs.80,00,000/- before the Debts Recovery Tribunal and further, in view of the subsequent payments made, no amount is payable by the 2nd respondent and as such, the proceedings initiated under the Act are fit to be set aside by directing the 1st respondent – Bank to return the documents of the mortgaged properties belonging to the petitioner.

On the other hand, it is submitted by Sri A. Satyanarayana, learned Standing Counsel for the 1st respondent – Bank, that as much as the S.A. is pending before the Tribunal and is directed to be posted for hearing on 07.10.2015, it is not open to the petitioner to prosecute simultaneous proceedings by way of Writ Petition before this Court, and as such, the petitioner is not entitled to the relief as prayed for. It is further submitted that the loan amount is not cleared, as the petitioner's mother has merely deposited Rs.80,00,000/- before the Debts Recovery Tribunal.

It is not in dispute that S.A.No.109 of 2011 is

directed to be posted on 07.10.2015. Further, no material is placed before this Court to show that the entire loan amount due by the 2nd respondent is cleared. In view of the pendency of S.A., we do not find any merit in this Writ Petition so as to examine the claim of the petitioner at this point of time.

Granting liberty to the petitioner to pursue S.A.No.109 of 2011 on the file of Debts Recovery Tribunal, Hyderabad, the Writ Petition is dismissed. As the S.A. is of the year 2011 and is stated to have been posted to 07.10.2015, we deem it appropriate to direct the Debts Recovery Tribunal, Hyderabad, to dispose of the S.A. itself as expeditiously as possible, preferably within a period of three (3) months from today.

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

R. SUBHASH

REDDY, J

A. SHANKAR

NARAYANA, J

September 14, 2015

MD