

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.39518 of 2016

Order: (per V.Ramasubramanian, J.)

Challenging the measures taken by the Bank under Section 13(4) of the SARFAESI Act, the petitioner has already filed S.A.No.205 of 2016 before the Debts Recovery Tribunal, Hyderabad. On 09-6-2016, the Tribunal has passed the following interim order:

“Ld. Advocate Mr. V.V.Ramana appears for the Applicant.

None appears for the Respondent Bank.

Ld. Advocate for the Applicant pressing the present application challenging the sale proposed to take place on 10/06/16.

The main contention of the Applicant is that neither the Demand Notice nor notice prior to sale has not been served upon the Applicant when the entire process is vitiated.

Ld. Advocate for the Applicant submitted that notice has been served upon the Bank and files a proof. From the proof of the service it is not clear that all the documents has served or not.

The issue raised being factual, there is need for hearing at length by producing documents. Hence, it is not possible to decide the issue raised by the Applicant at this stage. The sale is to take place tomorrow. The application is moved today. Hence, it is ordered:

1. The Respondent Bank is directed to go ahead with the sale but the sale shall not be confirmed till the next date of hearing.

2. Respondent Bank is directed to file reply statement by the next date.

Matter is adjourned to 13/07/16.

Copy of this order be given to the parties.”

2. Thereafter, the Bank appears to have issued a letter dated 02-11-2016. The letter appears to be a very formal letter. Nothing turns on the said letter. The contents of the letter, according to the petitioner threaten to take possession on 17-11-2016.

3. The case of the petitioner is that when the appeal is pending before the Debts Recovery Tribunal, no such threat can be held out. But unfortunately, what the petitioner actually wants from this Court is an interim order pending disposal of an appeal before the Tribunal. The petitioner should seek the very same interim order only from the very same Tribunal where the main case is pending. There cannot be one Court dealing with the main case and another Court granting an interim protection. Therefore, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

G.SHYAM PRASAD, J.

16th November, 2016.
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AND
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(per VRS, J.)



16th November, 2016.
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