

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION Nos. 43733, 43734 and 43829 of 2016

COMMON ORDER: (*Per VRS,J*)

The petitioners, who are borrowers as well as guarantors, have come up with these writ petitions, challenging the alleged threat posed by the respondent-Bank to take possession of the security interest.

2. Heard Mr. A. Suryanarayana, learned counsel for the petitioners.

3. There are two difficulties in entertaining these writ petitions. The first is that after the issue of the demand notice under Section 13(2) of the SARFAESI Act, 2002, the respondent-Bank has not yet issued a possession notice under Section 13(4). The second is that till a possession notice is issued under Section 13(4), no cause of action arises for the borrowers and guarantors.

4. After the issue of a possession notice, the petitioners can always approach the Debts Recovery Tribunal under Section 17. Till 03.11.2016, there was no Presiding Officer for the Tribunal. But, from 03.11.2016, a Presiding Officer has taken over charge.

Therefore, leaving it open to the petitioners to approach the Tribunal for appropriate reliefs, these Writ Petitions are dismissed.

Consequently, miscellaneous petitions if any pending in the writ petitions shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

16th December, 2016
cbs





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