

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 39016 of 2016

ORDER: (*Per VRS,J*)

The petitioners have come up with the present writ petition, challenging a possession notice issued under Section 13(4) of the SARFAESI Act.

2. Heard Mr. N. Ashok Kumar, learned counsel for the petitioners.

3. The main ground, on which the petitioners challenge the possession notice, is that in response to the demand notice under Section 13(2), they have already submitted a representation and without passing an order mandatorily required under Section 13(3A), the possession notice under Section 13(4) has been issued.

4. But, in this case, we do not wish to exercise the jurisdiction under Article 226 of the Constitution for two reasons. The first reason is that the Debts Recovery Tribunal has already started functioning from last week. Therefore, the petitioners can raise all these points before the Debts Recovery Tribunal. The second reason is that the petitioners have already gone to the civil Court and filed a suit in

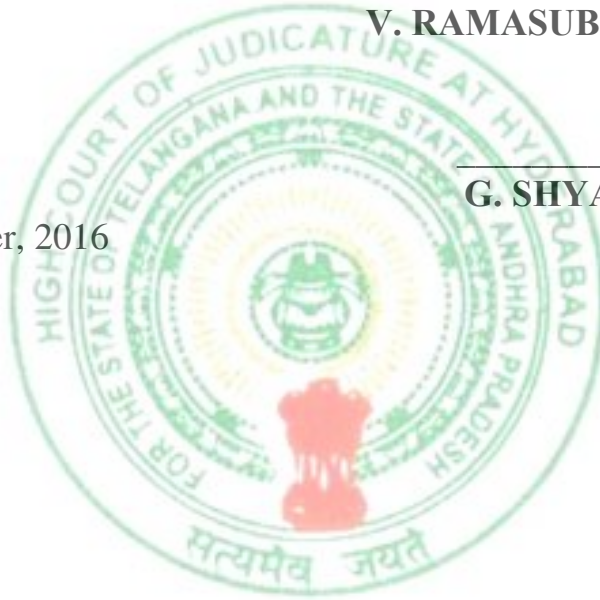
O.S.No.49 of 2015, seeking partition and separate possession of several properties, of which, the mortgaged property is one. The wisdom that the property is the joint family property, has dawn after the mortgage. Therefore, leaving it open to the petitioners to go before the Debts Recovery Tribunal, the Writ Petition is dismissed.

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

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

11th November, 2016
cbs





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