

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

WRIT PETITION No.35651 of 2016

Between:

Gadde Sudheer

PETITIONER

And

1. The Union of India, rep. by the under Secretary, Ministry of Finance, Government of India, New Delhi, and others.

RESPONSENTS



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
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ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Aggrieved by the rejection of his appeal under Section 17 of the SARFAESI Act, 2002, a person, who claims to be a secured creditor of the person, who borrowed money from the Bank, has come up with the present writ petition.

2. Heard Mr. D. Suresh Kumar, learned counsel for the petitioner. Mr. A. Krishnam Raju, learned counsel takes notice for the Bank.

3. Admittedly, respondents 3 and 4 borrowed money from the Syndicate Bank, whose authorized officer is the 2nd respondent herein, and the said account became a non-performing asset. Claiming that he had advanced loans to the very same borrowers the petitioner has already filed a civil suit in O.S.No.464 of 2015 on the file of the II Additional District Judge, Vijayawada, for a preliminary decree claiming that he has a mortgage over the very same property. Interestingly, the petitioner claims that the mortgage was created with the deposit of Xerox copies of the title deeds.

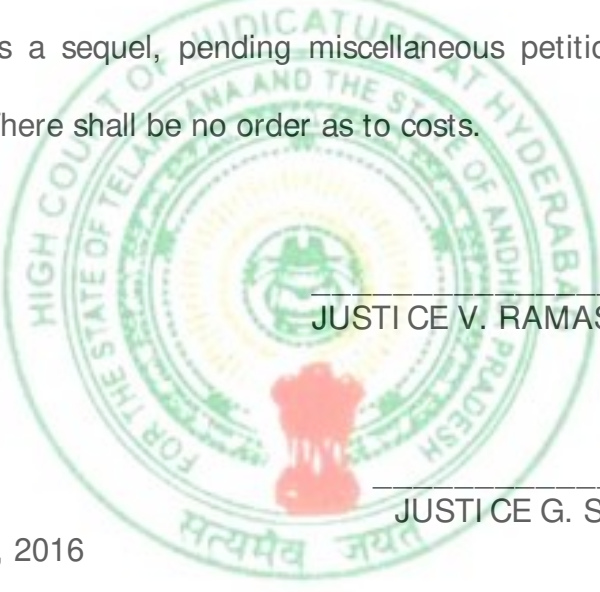
4. After having gone to the civil Court for recovery of money against the principal borrowers, the petitioner approached this Court and filed a writ petition.

5. But for obvious reasons, the petitioner withdrew the writ petition with liberty. On the basis of the liberty so granted, the petitioner went before the Debts Recovery Tribunal. But the Debts Recovery Tribunal dismissed the appeal on the ground that the petitioner has no

previty of contract with the bank and that his dispute with the borrower cannot be resolved by the Debts Recovery Tribunal. Therefore, he is before us.

6. As pointed out earlier, the only remedy open to the petitioner as against his borrower, is before the civil Court and the petitioner is already before the Civil Court. The Tribunal cannot adjudicate and pass a decree in favour of the petitioner as against the persons, who borrowed money from the Bank. Therefore, the Tribunal did the right thing in dismissing the appeal at the threshold without adding to the number of pendencies before it. Hence, the writ petition is dismissed.

7. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.



JUSTICE V. RAMASUBRAMANIAN

JUSTICE G. SHYAM PRASAD

30th November, 2016
Js.

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

WRIT PETITION No.35651 of 2016



Date: 30-11-2016

Js.