

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO
WRIT PETITION No. 11894 OF 2016

ORDER : *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

Against the order passed by the Collector and District Magistrate, East Godavari on 20.06.2015, under Section 14(1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the petitioners herein, 10 in number, instituted this Writ Petition.

It is alleged by the learned counsel for the petitioners that fraud has been played by Respondents 5, 6 and 7 on the 4th respondent bank and by creating and fabricating false documents, a huge financial assistance has been availed by them. Since they have committed default in repaying the said loan amount, it is alleged that the immovable properties of the petitioners are being proceeded against for realization of the outstanding liability.

Under Section 17 of the SARFAESI Act, any person aggrieved by any of the measures referred to in sub-section (4) of Section 13 taken by the secured creditor or his Authorized Officer may make an Application to the Debts Recovery Tribunal having jurisdiction in the matter within forty-five days and any such Appeal preferred under Section 17 shall be dealt with on its merits.

Therefore, preserving liberty to the petitioners herein to avail the effective alternative remedy available under Section 17 of the SARFAESI Act by preferring an Appeal to the Debts Recovery Tribunal, we dispose of this Writ Petition, inasmuch as allegations of fraud/mis-representation require collection of evidence, both oral and documentary and hence, the Writ Petition is not the most ideal proceedings to enable collection of any such evidence, though collection of evidence is not totally forbidden under law. No costs.

Consequently, the miscellaneous applications, if any shall also

stand disposed of.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

11th April 2016

Issue CC in three days.
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