

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice G.Shyam Prasad

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Writ Petition No.27008 of 2016

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Date: 11.08.2016

Between:

M/s.Arya Ventures
rep. by its Managing Partner
Hyderabad and another

..Petitioners

and

The State Bank of Hyderabad
rep. by its Authorised Officer
Hyderabad

..Respondent

Counsel for the Petitioners: Mr.EVSS.Acharyulu

**Counsel for the respondent: Mr.Ambadipudi
Satyanarayana**

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The E-Auction-cum-Sale Notice, dated 14-07-2016, issued by the respondent is assailed in this Writ Petition.

Having regard to the various disputed issues arising in this case, as have been projected during the course of hearing by the learned Counsel for the respective parties, we are of the opinion that the appropriate remedy for the petitioners is to approach the Debt Recovery Tribunal under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act').

The Supreme Court in **United Bank of India vs. Satyawati Tondon and others**^[1] held as under:

“In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

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It is a matter of serious concern that despite repeated pronouncement of this

Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.”

The above judgment was reiterated in several subsequent judgments. In the light of the legal position referred to above, the petitioners are relegated to the remedy under Section 17 of the Act.

The Writ Petition is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.33438 of 2016, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 11th August, 2016
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[\[1\]](#) (2010) 8 Supreme Court Cases 110