

**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD**

WRIT PETITION No.32108 of 2016

DATE: 22.09.2016

Between:

Mrs. Shameem Ali

....Petitioner

and

The State Bank of India and another

....Respondents

COUNSEL FOR THE PETITIONER : Mr. G.V. Ramana Reddy

COUNSEL FOR THE RESPONDENTS : -----



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

This Writ Petition is filed for a mandamus to declare notice, dated 30.03.2016 issued by respondent No.2 on behalf of respondent No.1 as illegal and arbitrary.

We have heard Mr. G.V. Ramana Reddy, learned counsel for the petitioner and perused the record.

As the petitioner committed default in repayment of the loan amount, respondent No.1 filed O.A.No.187 of 2011 before the Debts Recovery Tribunal at Hyderabad. The said O.A. was allowed declaring that respondent No.1 is entitled to Recovery Certificate for a sum of Rs.29,38,277.46 ps. with future interest @ 12.75% per annum from the date of application till the date of realization. Respondent No.1 has initiated recovery proceedings vide R.P.No.29 of 2015 before the Recovery Officer, Debts Recovery Tribunal, wherein it has shown a sum of Rs.43,93,870.46 ps. as recoverable from the petitioner and others.

While the said proceedings are stated to be pending, respondent No.2 has issued the impugned notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') for a

sum of Rs.70,20,199.75 ps. comprising principal of Rs.16,64,682/-, interest of Rs.51,14,764.75 ps. and additional interest of Rs.2,40,753/-. The grievance of the petitioner is that while the claim made by respondent No.1 before the Recovery Officer was for recovery of Rs.43,93,870.46 ps. as on 30.06.2015, respondent No.2 has made a demand for Rs.70,20,199.75 ps.

In our opinion, the dispute raised by the petitioner cannot be adjudicated in this Writ Petition for, the petitioner has only received a notice under Section 13(2) of the Act. Under Section 13(3A) of the Act, a person, who is aggrieved by the notice issued under Section 13(2), is not entitled to avail any legal remedy till any of the measures mentioned under Section 13(4) were taken. Indeed, the very purpose of issuing notice under Section 13(2) of the Act is to submit objections, if any, to such notice, by the principal borrower or the guarantor. If the petitioner has valid reason to contest the quantum of amount for which the impugned notice is issued, nothing prevents her from raising objections before respondent No.2. She has not explained the reason for her not availing this opportunity. In this view of the matter, we decline to interfere with the impugned notice at this stage. However, the petitioner is permitted to submit a representation to respondent No.2 within two weeks from today. If such representation is received, respondent No.2 shall consider the same, take a decision and communicate the same to the petitioner before proceeding further in pursuance of the impugned notice.

Subject to the above, the Writ Petition is disposed of.

As a sequel to disposal of writ petition, WPMP.No.39698 of 2016 filed by the petitioner stands disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

22nd SEPTEMBER, 2016.

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