

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE Ms. JUSTICE J. UMA DEVI

WRIT PETITION No. 13695 of 2017

ORDER: (*per Hon'ble Sri Justice Sanjay Kumar*)

The challenge in this writ petition is to the action of the Bank of Maharashtra in issuing 'Intimation for Possession' dated 04.04.2017 in relation to the open land admeasuring Ac.2.00 guntas and Ac.3.22 guntas in Pedda Amberpet Village, Hayathnagar Revenue Mandal, Ranga Reddy District, offered by the petitioners as security interest for the loan facilities availed by them from the Bank.

The main ground of challenge was that the land was agricultural land and would therefore be protected under Section 31 (i) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, insofar as any action proposed to be taken by the secured creditor under the provisions thereof is concerned.

By order dated 20.04.2017, this Court granted interim stay of all further proceedings pursuant to the impugned notice accepting the plea of the petitioners that the land in question was an agricultural land.

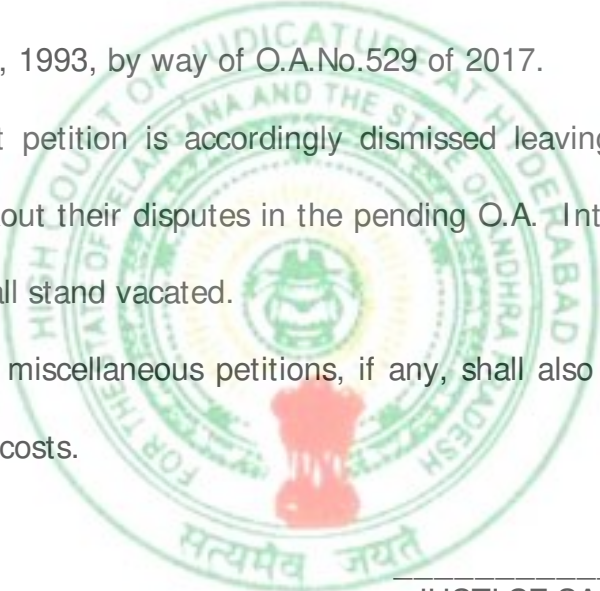
Though Sri A. Sudarshan Reddy, learned senior counsel appearing for Sri G. Madhusudhan Reddy, learned counsel for the petitioners, would assert that the land in question is agricultural in nature, Sri M.V.K. Viswanadham, learned counsel for the Bank, produced letter dated 04.08.2014 addressed by the first petitioner to the Bank stating that the land in question is non-agricultural in nature as the Hyderabad Metropolitan Development Authority had already notified it as non-agricultural. On this ground, the first petitioner informed the Bank that no

separate conversion would be required from agricultural to non-agricultural use.

In the light of this letter which remained un-rebutted, we are of the opinion that it is not open to the petitioners to approbate and reprobate to suit their own convenience. The land in question cannot be claimed to be agricultural in nature at one stage and non-agricultural in nature at another as per their whims and fancies. We are also informed that the Bank has already approached the jurisdictional Debts Recovery Tribunal under the provisions of the Recovery of Debts due to Banks and Financial Institutions Act, 1993, now re-named as the Recovery of Debts and Bankruptcy Act, 1993, by way of O.A.No.529 of 2017.

The writ petition is accordingly dismissed leaving it open to the parties to workout their disputes in the pending O.A. Interim order dated 20.04.2017 shall stand vacated.

Pending miscellaneous petitions, if any, shall also stand dismissed.
No order as to costs.



JUSTI CE SANJAY KUMAR

Date: 27.11.2017

JUSTI CE UMA DEVI

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