THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Petition No.13469 of 2017

Order: **(Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)**

This writ petition is filed questioning the action of the respondent-bank, in proceeding further under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Securitization Act') and in putting the petitioner's house property to sale on 21.4.2017 by issuing paper notification on 16.3.2017 without considering and disposing of the objections/representation dated 31.3.2015 filed by the petitioner, as arbitrary and illegal.

The petitioner was granted an overdraft facility for Rs.90.00 lakhs in the year 2011, and the house property of Sri V. Lakshminarayana Reddy was given as a collateral equitable mortgage for the said facility. The petitioner was unable to repay their loan, and the account was declared a non-performing asset. In reply to the notice issued under Section 13(2), the petitioner filed his objections on 31.3.2015 requesting the respondent-bank to consider their request, for a one time settlement, to enable them to make final payment. On the ground that their request was not considered, the petitioner has invoked the jurisdiction of this Court.

Section 13(3A) of the Securitization Act stipulates that, if on receipt of the notice under Sub-section (3), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and, if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate, within fifteen days of receipt of such representation or objection, the reasons, for non-acceptance of the representation or objection, to the borrower. Under the proviso thereto, the reasons so communicated or likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under Section 17 or to the Court of the District Judge under Section 17-A.

While the reasons communicated by the bank, to the objections raised by the borrower under Section 13(3A), cannot be questioned in proceedings under Section 17 or 17-A of the Securitization Act, that does not discharge the bank of its obligation to pass an order, on the objections raised by the borrower, under Section 13(3A) of the Securitization Act. The objection which a borrower can raise under Section 13(3A) is to the notice issued under Section 13(2), whereby the secured creditor calls upon the borrower to discharge, in full, his liability within 60 days from the date of the notice failing which the secured creditor is empowered to exercise his rights under Section 13(4) of the Securitization Act.

The petitioner has merely sought a one time settlement of their loan. Whether or not a one time settlement should be granted are all matters which are within the discretion of the respondent-bank and, in the absence of any statutory obligation on their part to extend a one time settlement to the borrower, such an objection, raised by the borrower on receipt of a notice under Section 13(2), does not obligate the bank either to consider the same or to pass a reasoned order thereupon. We are satisfied that failure of the bank to pass an order under Section 13(3A), in the facts and circumstances of the present case, is not fatal.

The writ petition fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

21.4.2017

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