

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

WRIT PETITION No.37659 of 2015

ORDER: (per SK,J)

This writ petition was filed assailing the notice dated 27.08.2015 issued by the Union Bank of India in exercise of power under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act of 2002').

No interim orders were granted by this Court during the pendency of this writ petition protecting the possession of the petitioner.

While so, Sri Maruthi Jadav, learned counsel representing Sri B.S.Prasad, learned counsel for the respondent bank, would inform this Court that the daughters of the petitioner independently filed S.A.No.265 of 2012 before the Debts Recovery Tribunal at Visakhapatnam and having secured conditional interim relief, they failed to comply with the condition, whereby they had to deposit 20% of the amount due to the bank within a time frame. Thereafter, they approached this Court by way of W.P.No.29148 of 2015 but ultimately the said writ petition also came to be dismissed as they failed to comply with the condition imposed upon them while granting interim relief requiring them to make payment of a sum of Rs.2,25,000/- to the bank within a time frame.

The aforestated facts clearly demonstrate that the petitioner is yet to avail the statutory remedy provided under the Act of 2002, if he has any cause of action.

Though Sri C.Upendra, learned counsel for the petitioner, would contend that the petitioner had absolute rights in the secured asset and that his mother could not have mortgaged the same, we are of the

opinion that this disputed question of fact is not amenable to resolution in a writ petition.

The writ petition is accordingly dismissed leaving all issues open and permitting the petitioner to avail appropriate remedies before the proper forum as and when a cause of action arises. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

J.UMA DEVI,J

Date:31.10.2017

PGS/GJ

