

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Petition No.13482 of 2017

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

The relief sought for in this writ petition is to declare the action of the respondent-bank in taking possession of the mortgaged residential house as arbitrary and illegal, and to direct the respondent-bank not to take possession of, or sell, the residential house.

The only submission of Sri M. Rajesh, learned counsel for the petitioner, is that the respondent-bank had failed to give the petitioner adequate time to repay the loan amount; and though they had submitted a representation on 20.1.2016, requesting time for repayment, the respondent-bank had failed to consider the said representation in accordance with law.

A perusal of the letter addressed by the petitioner to the respondent-bank on 20.1.2016 shows that the petitioner had only sought ten to fifteen days time to clear the dues. The ten to fifteen days time, sought for in the letter dated 20.1.2016, expired by end of January, 2016 itself. More than fifteen months have since elapsed, and the petitioner has admittedly not yet cleared their dues.

We see no reason, therefore, to interfere with the action which the respondent-bank is taking to realise the amounts due to it. In judicial review proceedings, under Article 226 of the Constitution of India, this Court would not sit in appeal over the decision of the bank to put the mortgaged property to sale for recovery of the amounts due.

Interference under Article 226 of the Constitution of India, is justified only if a provision of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the 'SARFAESI Act'), or the Rules made thereunder, are contravened by the bank in the process of putting the property to sale. No such statutory violation has been brought to our notice.

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.

The seal of the High Court of Judicature at Hyderabad is a circular emblem. It features a central green emblem with a white star and crescent, surrounded by a green border. The text 'HIGH COURT OF JUDICATURE AT HYDERABADA' is written in a circle around the central emblem. Below the emblem, the text 'FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH' is written. At the bottom, the motto 'सत्यमेव जयते' is inscribed in Devanagari script.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

28th April, 2017

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Date: 28.4.2017

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