

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.11692 OF 2017

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

In this Writ Petition, the petitioner questions the action of the respondent-bank in initiating proceedings by issuing possession notice under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') dated 02.01.2016, and the consequential proceedings of the District Magistrate dated 10.02.2017 issued under Section 14 of the SARFAESI Act, directing the subject property to be delivered to the respondent-bank.

The submission of Smt. M. Bhaskara Lakshmi, learned Senior Counsel appearing on behalf of the petitioner, is that the Section 13(4) notices were not served on the petitioner; the petitioner had shifted her residence to Bheemavaram Village, Ananthagiri Mandal of Visakhapatnam District; and though the respondent-bank was aware of both the addresses, notice was not sent to the address at Bheemavaram village.

Sri M. Srikanth Reddy, learned standing counsel for the respondent-bank, has placed before us the postal acknowledgment cards addressed to M/s. Sobha Modern Rice Mill with Smt. Sobha Punvayathi as its proprietrix. The said acknowledgment cards contain the signature of the addressee as Smt. S. Punvayathi. While Smt. M. Bhaskara Lakshmi, learned Senior Counsel, would submit that the signature is not that of the petitioner, the fact remains that the postal acknowledgment card, of the registered letter sent by State Bank of India, Srungavarapu Kota, Main Branch to the petitioner, contains such an endorsement.

As the contention now urged before us, by Smt. M. Bhaskara Lakshmi, would require us to adjudicate disputed questions of fact, which this Court would not undertake in proceedings under Article 226 of the Constitution of India, the petitioner's remedy is to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

Leaving it open to the petitioner to avail their statutory remedy, the Writ Petition fails and is, accordingly, dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand dismissed. No order as to costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 25-04-2017.
DSH/SIVA



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(Order of the Division Bench delivered by
Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Date. 25-04-2017

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