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

WRIT PETITION No.20268 of 2017

ORDER: (per Justice Sanjay Kumar)

Challenge in this writ petition is to the order purportedly passed by the Debts Recovery Tribunal, Hyderabad, in I.A.I.R.No.1266 of 2017 filed by the petitioner herein in S.A.No.325 of 2015 on the file of the Tribunal. The said S.A. was preferred by the third and fourth respondents herein under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') assailing the measures taken by the Punjab National Bank under Section 13(4) of the SARFAESI Act. I.A.I.R.No.1266 of 2017 was filed by the petitioner herein in the said S.A. under Order 1 Rule 10 CPC seeking to be impleaded as a party respondent therein. While so, by order dated 22.04.2017, the Tribunal dismissed the S.A. itself and consequently interlocutory applications pending therein, including the implead petition filed by the petitioner herein, stood disposed of. Aggrieved thereby, the petitioner is before this Court.

Admittedly, the petitioner was one of the guarantors for the loan facilities availed by the third and fourth respondents herein from the respondent bank.

Sri P.Suresh, learned counsel for the petitioner, would rely upon the order dated 23.03.2015 passed by this Court in W.P.No.7170 of 2015, wherein this Court observed that the petitioner has an effective alternative statutory remedy and therefore no cause was made out to exercise discretion under Article 226 of the Constitution.

Perusal of the order dated 22.04.2017 passed by the Tribunal in S.A.No.325 of 2015 reflects that the plea taken by the third and fourth respondents herein, being the applicants in the said S.A., was disallowed and while dismissing the S.A., the Tribunal merely observed that pending interlocutory applications would also stand disposed of in the light thereof. As the petitioner, being a guarantor for the loan facilities availed by the principal borrowers from the bank, would be covered by the ambit of ‘borrower’ as defined under Section 2(1)(f) of the SARFAESI Act, he would have an independent right to approach the Tribunal under Section 17 of the SARFAESI Act and he need not take recourse to his impleadment in the Securitisation Application filed by the principal borrowers.

In that view of the matter, we find no reason to interfere with the final order passed by the Tribunal dismissing S.A.No.325 of 2015 and incidentally closing the implead petition filed therein by the petitioner. In terms of the earlier order passed by this Court, it would always be open to the petitioner to avail the appropriate remedies under the statute in accordance with law before the proper forum.

Subject to the above observation, the writ petition is dismissed.

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

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 06.11.2017
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