

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

WRIT PETITION NO.28439 OF 2017

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

The petitioners have invoked the jurisdiction of this Court under Article 226 of the Constitution of India, against the action sought to be taken against them, by the second respondent-Bank, to take physical possession of the mortgaged property under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the SARFAESI Act" for brevity). The action initiated by the 2nd respondent-bank, under Section 14 of the SARFAESI Act, was preceded by a notice under Section 13(4) of the SARFAESI Act against which the petitioners have an alternative statutory remedy under Section 17 of the SARFAESI Act.

While Sri Dasari S.V.V.S.V.Prasad, learned counsel for the petitioners, would submit that the subject lands are agricultural lands, Smt. T.Vidya Rani, learned Standing Counsel for the bank, would contend that the subject lands formed part of the poultry farm for which the loan was extended; they are not exempt under Section 31(i) of the SARFAESI Act; and the subject lands were converted to be used for non-agricultural purposes under the Andhra Pradesh Agricultural Land (Conversion of Land from Agriculture to non-Agriculture Purposes) Act, 2006. As these disputed questions of fact can also be examined by the Debts Recovery Tribunal, on its jurisdiction being invoked under Section

17 of the SARFAESI Act, we see no reason to entertain this Writ Petition.

Leaving it open to the petitioners to avail their statutory alternative remedy, of invoking the jurisdiction of the Debts Recovery Tribunal, the Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

30th August 2017
RRB

