

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

WRIT PETITION No.44237 of 2017

ORDER: (Per Justice Sanjay Kumar)

The prayer of the petitioner in this case reads as under:

“For the reasons stated in the accompanying affidavit the petitioner pray the Hon'ble Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent Bank in obtaining impugned Advocate's Warrant dated 30-10-2017 in CrI.M.P.No.25/2017 on the file of Chief Judicial Magistrate, Mahabubnagar for the purpose of dispossessing the petitioner from the secured asset as mentioned in the Warrant Notice, dated 18-12-2017 though the S.A.No.198/2017 as against the auction notice of the secured asset is pending on the file of Debt Recovery Tribunal and further though there are interim orders as against the auction of the secured asset by the Debt Recovery Tribunal in I.A.No.1850/2017, as illegal, unlawful, against the principles of natural justice and consequently direct the respondent Bank not to dispossess the petitioner from the secured asset, and pass such other order or orders which are necessary in the interest of justice.”

The impugned Advocate Commissioner's Warrant dated 30.10.2017 would have been issued pursuant to the order passed by the learned Chief Judicial Magistrate, Mahabubnagar, in CrI.M.P.No.25 of 2017. The said order is not subjected to challenge before us. Only the consequential Advocate Commissioner's warrant is assailed by way of this writ petition.

That apart, the petitioner already approached the Debts Recovery Tribunal at Hyderabad by way of Securitisation Application No.188 of 2017 under Section 17 of the Securitisation and Reconstruction of Financial

Assets and Enforcement of Security Interest Act, 2002, which is pending as on date.

That being so, we are not inclined to entertain this writ petition as it is not open to the petitioner to parallelly pursue two remedies.

The writ petition is accordingly dismissed on this short ground leaving it open to the petitioner to seek appropriate relief before the jurisdictional Debts Recovery Tribunal.

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

Date: 26.12.2017
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SANJAY KUMAR, J

J. UMA DEVI, J