

THE HON'BLE SRI JUSTICE SANJAY KUMAR  
AND  
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION NO.1571 OF 2018

ORDER: (per SK,J)

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

'For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ or order more particularly one in the nature of writ of Mandamus declaring the action of the respondent No.3 in issuing proceedings File No.COLNLR-DSED/151/2017-JA(D1)-REVNLR dt.17.11.2017 in exercise of the powers conferred under Section 14 of SARFAESI Act, 2002 basing on Possession Notice of respondent No.1 and 2 dt.05.06.2017 directing the respondent No.4 to assist the respondents Bank in taking over the physical possession of impugned Notice schedule properties belongs to the petitioners particularly Item No. 5, 6 and 7 respectively in respect of outstanding amount of Rs.82,05,564.88 (Rupees eighty two lakhs five thousand five hundred sixty four and eighty eight paise only) and taking coercive action under SARFAESI Act for taking physical possession as illegal, arbitrary, unconstitutional and consequently set aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

It is however conceded by Ms.T.Geeta, learned counsel for the petitioners, that the petitioners have already approached the Debts Recovery Tribunal, Visakhapatnam, under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, but as there was a delay of 22 days in doing so, the condone delay petition was taken up by the Tribunal as M.A.No.74 of 2017 and the same is still pending consideration.

In that view of the matter, as the petitioners, in their wisdom, have already invoked the statutory remedy available to them and the Tribunal is presently seized of the condone delay petition filed therein, it is not open to them to simultaneously maintain this writ petition before this Court.

The writ petition is accordingly dismissed on this short ground. All issues are left open. We are certain that in the event the petitioners request the Tribunal to consider their condone delay petition expeditiously, the Tribunal would do so.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

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SANJAY KUMAR,J

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P.KESHAVA RAO,J

Date:23.01.2018

Note:

Issue C.C. by tomorrow.  
(B/o) GJ

