

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

WRIT PETITION No. 1483 OF 2018

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

The prayer in this writ petition 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 an appropriate Writ, Order or direction, more preferably one in the nature of Writ of Mandamus and to declare the action of the respondents in not permitting the petitioner to repay the outstanding balance amounts of Rs.85,264.89/- (Rupees Eighty Five Thousand Two Hundred and Sixty Four and Eighty Nine Paise only) in his total Housing Loan amount of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand only) and also not releasing the original documents (i.e., Sale Deed and other) of the petitioner which was mortgaged at the time of taking Housing Loan is highly illegal, arbitrary, unreasonable, discriminatory and also in violation of Art.14, 16 and 21 of the Constitution of India and declare the same as bad in law and consequently direct the respondents to receive the payments of the outstanding Loan amounts from the petitioner and release the original documents (i.e., Sale Deed and other) of the petitioner and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

It is an admitted fact that the petitioner already approached the Debts Recovery Tribunal at Hyderabad *vide* S.A.No.584 of 2012 under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, 'the Act of 2002'). Therein, the petitioner secured an interim direction, by way of docket order dated 14.12.2012, whereby the State Bank of India, the first respondent herein, was directed to defer all further proceedings pursuant to the notice dated 23.11.2012 issued by it under Section 13(4) of the Act of 2002.

The grievance of the petitioner, as set out in the affidavit filed in support of the writ petition, and as vociferously canvassed by Sri C. Raja Sekhar Reddy, learned counsel for the petitioner, is that though the petitioner is willing to pay the total outstanding

balance amount of Rs.85,264.89 paise and also approached the Bank on 09.01.2017 seeking to do so, the Bank refused to receive the amount.

Sri Maruthi Jadav, learned counsel representing Sri B.S.Prasad, learned counsel for the State Bank of India, would however inform this Court that the subject loan account of the petitioner was declared as a Non-Performing Asset as long back as in the year 2011 and the interest accruing on the said amount, including the penal interest, would be shown in a separate account and that the petitioner is incorrect in claiming that the total outstanding balance amount is only Rs.85,264.89 paise. He would further submit that as the petitioner already approached the jurisdictional Tribunal, it is not open to him to approach this Court by way of this writ petition.

We find merit in the submission made by the learned counsel appearing on behalf of the Bank.

Apart from the fact that the petitioner seems to be in error in unilaterally deciding that the outstanding dues payable by him stand at Rs.85,264.89 paise, it is not in dispute that he has already invoked the jurisdiction of the Tribunal seeking relief. It would therefore not be open to him to simultaneously pursue two parallel remedies. However, it would always be open to him to raise any issue before the Tribunal, be it in the pending S.A. or by way of a fresh S.A. If he wishes to settle the account with the State Bank of India, he would always be at liberty to approach the Bank to secure the details of the total outstanding amount due and payable by him so that he may settle his account.

However, as we also find that the petitioner himself secured an absolute stay of all further proceedings from the jurisdictional Tribunal and the same would prevent the Bank from accepting the amounts offered by the petitioner even if he wishes to settle the account, it would be necessary for him to seek proper clarification/modification of the Tribunal's order in the event he wishes to settle his account.

Viewed from any angle, we see no grounds to entertain this writ petition. The writ petition is accordingly dismissed.

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

Date: 22.01.2018

va

JUSTICE SANJAY KUMAR

JUSTICE P.KESHA RAO

