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

WRIT PETITION NO.1657 OF 2018

ORDER: (per SK,J)

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

'For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to pass order or orders, direction more particularly in the nature of Writ of Mandamus or any other appropriate writ, order by direction to the Debts Recovery Appellate Tribunal to dispose of the matter on merits in Tender No 6 of 2018 and consequentially seeking direction to the respondents more particularly respondent No 3 not to create any third party interest in respect of the property bearing all that piece and parcel of newly constructed of 2827 Sq Feets house Plot No 376/2, admeasuring 150 Sq Yards, equalling 125.41, Squire meters, in Sy No 30, Sharada Nagar Colony, Sahebnagar Kalan Village, Hayathnagar Revenue Mandal, R.R. District and pass such other order or orders in the interest of justice.'

Sri D.Raghavulu, learned counsel for the petitioner, would concede that an appeal has already been preferred before the Debts Recovery Appellate Tribunal, Kolkata, in Tender No.6 of 2018, assailing the order dated 27.12.2017 passed by the Debts Recovery Tribunal-I, Hyderabad, in S.A.No.187 of 2016 but he would submit that as the Appellate Tribunal is not functioning due to bereavement in the family of the Presiding Officer, the petitioner was constrained to approach this Court. Learned counsel would state that after the dismissal of S.A.No.187 of 2016 by the Tribunal, the auction purchaser, the second respondent herein, alienated the secured asset in favour of the third respondent herein and presently, measures are being taken by the third respondent to alienate the property further. Learned counsel would however confess that he has no concrete evidence in proof of the same.

As the petitioner has already invoked the appellate remedy available to him under the provisions of the Securitisation and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, we are not inclined to entertain this writ petition. Further, as the petitioner has already availed the said statutory remedy, the doctrine of *lis pendens* would be applicable and any alienation of the secured asset during the pendency thereof would, in any event, be subject to further orders in the appeal.

The writ petition is accordingly dismissed at the admission stage.

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

GJ