

HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.3823 of 2018

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

The petitioner is aggrieved by the order dated 22.12.2017 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.No.327 of 2017 in S.A.I.R.No.45 of 2017.

The said I.A. was filed by the petitioner, the applicant in S.A.I.R.No.45 of 2017, under Section 5 of the Limitation Act, 1963, seeking condonation of the delay of 16 days in the presentation of the Securitisation Application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'). By the docket order dated 22.12.2017, the Tribunal opined that Section 5 of the Limitation Act, 1963, would not have application to Section 17 of the SARFAESI Act and that it had no power to condone the delay in the presentation of an application under Section 17 of the SARFAESI Act. In consequence, the Tribunal dismissed the said I.A.

Sri Amancharla V. Gopala Rao, learned counsel for the petitioner, would point out that the issue is squarely covered by the decision of a Division Bench of this Court in Porus Laboratory Pvt. Ltd. v. Indian Bank¹. In the said decision, a Division Bench of this Court comprising one of us, SK,J, and another learned Judge held to the effect that Section 5 of the Limitation Act, 1963, would have application to Section 17 of the SARFAESI Act also.

¹ 2018 (4) ALT 283

In that view of the matter, the Tribunal was not correct in non-suiting the petitioner on the ground that it had no power to condone the delay in the filing of the Securitisation Application.

The docket order dated 22.12.2017 is accordingly set aside and I.A.No.327 of 2017 is restored to the file of the Debts Recovery Tribunal-I at Hyderabad for consideration afresh on its own merits and in accordance with law. In the event the Tribunal finds sufficient cause for condonation of the delay, it shall proceed to condone the same and take up the Securitisation Application for adjudication on merits.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Dt: 25.07.2018.
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