

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

WRIT PETITION No.5846 OF 2018

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

Sri M.R.K.Chakravarthy, learned counsel for the petitioner, would state that the order dated 20.12.2017 passed by the Debts Recovery Tribunal-1, Hyderabad, in S.A.No.48 of 2012, presently under challenge in this writ petition, is liable to be set aside on the short ground that the Tribunal proceeded on the assumption that the possession notice was issued by the Axis Bank Limited, the fourth respondent herein, on 03.10.2010 whereas it was actually issued on 03.10.2011. Learned counsel would point out that in the event the correct date is taken into account, the stipulated period of sixty days between the issuance of demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), and the possession notice under Section 13(4) thereof has been maintained. Learned counsel would draw our attention to the copy of the possession notice dated 03.10.2011 issued by the fourth respondent bank.

As the Tribunal seems to have proceeded on a factual misconception and decided the matter, we are of the opinion that this is a fit case where the petitioner should seek review of the order under challenge. The Tribunal would have the power of review by virtue of Section 22(2)(e) of the Recovery of Debts and Bankruptcy Act, 1993, which would be made applicable to proceedings under the SARFAESI Act in the light of Section 37 thereof.

As the petitioner would again have to take steps for condonation of delay in seeking review on account of the mistake committed by the Tribunal, we are of the opinion that sufficient time may be given to him to seek such relief instead of going through the process.

The writ petition is accordingly disposed of permitting the petitioner to avail the remedy of review before the Debts Recovery Tribunal-1, Hyderabad, in relation to the order dated 20.12.2017 passed by it in S.A.No.48 of 2012. Such relief shall be sought by the petitioner within four weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

P. KESHAVA RAO,J

Date: 22.02.2018

Note:-

Registry is directed to return the certified copy of the order under challenge to the learned counsel for the petitioner.

(B/o)

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