

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON' BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.7545 OF 2018

Date:04.04.2018

Between:

Smt. Sadhna Sharda W/ o.Late Mr.Chandrakant Sharda
Aged about 66 years, Occ: Household,
Plot No.49/ 50, Sanjeevaiah Colony, Tadbund,
Secunderabad, Telangana State.

...Petitioner

Vs.

Asset Reconstruction Company India Limited,
The Ruby, 10th Floor, 29, Senapati Marg,
Dadar (West), Mumbai, Rep.by its Authorized Officer
and others.

.. Respondents

For Petitioner : Sri N.Meher Prasad

For Respondents : Sri M. Sikanth Reddy
Sri B.S. Prasad

Gist :

Head Note :

Cases Referred : Nil

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ORDER: (Per V.Ramasubramanian,J)

Challenging the initiation of all proceedings under the Securitization Act, 2002, the petitioner has come up with the above writ petition.

2. Heard Mr.N.Meher Prasad, learned counsel for the petitioner and Mr.B.Narender Reddy, learned Senior Counsel appearing the respondents 1 and 2.

3. The 3rd respondent is a company which borrowed money from the 2nd respondent Bank. The petitioner's husband was one of the Directors of the 3rd respondent Bank. The other Director of the 3rd respondent Company was the brother of the petitioner's husband.

4. After the account of the 3rd respondent became a non-performing account, a demand notice was issued on 20.08.2003. Possession notice could be issued only after 14 years on 06.10.2017 and a sale notice was issued on 03.01.2018. The auction itself was held on 26.02.2018.

5. The petitioner's son approached the Debts Recovery Tribunal in SA No.1498 of 2017 under Section 17 of the Act challenging the possession notice dated 06.10.2017. Thereafter, the petitioner has come up with the above writ petition challenging (1) the demand notice dated 20.08.2003, (2) the possession notice dated 06.10.2017 and (3) the E-auction notice dated 03.01.2018, pleading ignorance of the entire sequence of events and also claiming that the Bank having agreed to discharge the personal guarantees of a few individuals on consent terms behind the back of the petitioner, is not entitled to proceed further. It

is also contended that a demand notice issued in the year 2003 cannot be followed by a possession notice after 14 years.

6. But, it is seen from the petition for vacating the stay filed by the respondent Bank that the brother of the petitioner's husband moved a writ petition way back in the year 2003 in WP No.26837 of 2003. In the said writ petition interim order of stay was granted on 31.10.2003. However, the writ petition was dismissed on 20.07.2007.

7. Thereafter, the petitioner's husband jumped into the fray and filed writ petition in WP No.14769 of 2007 and obtained a stay on 12.07.2007. The stay continued for a period of 10 years until the writ petition was dismissed on 10.07.2017. Therefore, it is not open to the petitioner to put the delay of 14 years in the issue of the possession notice as against the respondent Bank, as her husband and her husband's brother had enjoyed the benefit of stay for 14 years.

8. In any case, the petitioner's son as well as the brother of the petitioner's husband have jointly filed S.A. No.1498 of 2017 challenging the very same possession notice which is also challenged in this writ petition. It appears that after issue of the auction notice, the prayer in SA No.1498 of 2017 also got amended to include a challenge to the E-auction notice. Therefore, the petitioner cannot prosecute parallel remedies before this Court.

9. Hence, the writ petition is dismissed. Consequently, miscellaneous petitions if any pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 04, 2018
KTL

