

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.8808 of 2018

Order: (per V.Ramasubramanian, J.)

Aggrieved by a Possession Notice issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, the petitioner has come up before us.

2. Heard Mr. Anguru Narayana Rao, learned counsel for the petitioner. Smt. S.Siva Kumari, learned Standing Counsel, takes notice for the respondent.

3. The main ground of challenge to the Possession Notice is that the properties sought to be taken possession and brought to sale are agricultural properties exempt under Section 31(i) of the SARFAESI Act, 2002. But the description of properties in the impugned Possession Notice reads as follows:

“All that part and parcel of the property consisting of vacant site admeasuring 285 sq. yards in R.S.No.345 situated at Nunna Village, within the limits of Nunna Village Panchayat Area, within the jurisdiction of office of the Sub Registrar, Nunna, Vijayawada, Krishna District in the name of Sri Guntaka Madhusudhana Reddy, being bounded by:

On the North by:Property of Guntaka Venkata Reddy

On the South by: Land of Guntaka Appi Reddy

On the East by: Property of Guntaka Basivi Reddy

On the West by: Property of Guntaka Pitchi Reddy to some extent and 4-0 yards wide joint pathway to some extent.

2. An extent of Ac.3-75 cents of land in R.S.No.1/4, situated at Eedara Village, within the limits of Eedara

Village Panchayath Area, Agiripalli Revenue Mandal, within the jurisdiction of office of the Sub Registrar, Nuzvid, Krishna District, in the name of Sri Guntaka Madhusudhana Reddy being bounded by:

On the North by: Land of Akireddy Vijaya Lakshmi

On the South by: Land of Athi Jamalaiah,
Athi Sambaiah

On the East by: Donka

On the West by: Land of Vaggai Gattu.”

4. At least one of the properties even if we go by the petitioner, is a vacant site, and not an agricultural land. The question as to whether the land is an agricultural land on facts and the question as to whether the exemption under Section 31(i) would apply, are all questions that can be conveniently adjudicated by the Debts Recovery Tribunal itself. As a matter of fact, the stage of auction has not come. We are at the stage of taking possession under Section 13(4). Therefore, there is no reason why the petitioner should not file an appeal under Section 17 of the SARFAESI Act, 2002 and raise all these points.

5. With the above liberty, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

ABHINAND KUMAR SHAVILI, J.

22nd March, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Writ Petition No.8808 of 2018
(per VRS, J.)



22nd March, 2018.
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