

*THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND

*THE HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

+WRIT PETITION No.11713 of 2018

%09-04-2017

Peechara Sunil Kumar S' o. Surendar Rao,
Aged about 45 years, R/ o. 59, Orion Villas,
Raidurgam, Hyderabad and others.

.. Petitioners

Vs.

\$ Indian Overseas Bank,
7-4-422/ 1, Main Road, Mukarampura,
Karimnagar, Rep. by its Branch Manager and others

.. Respondents

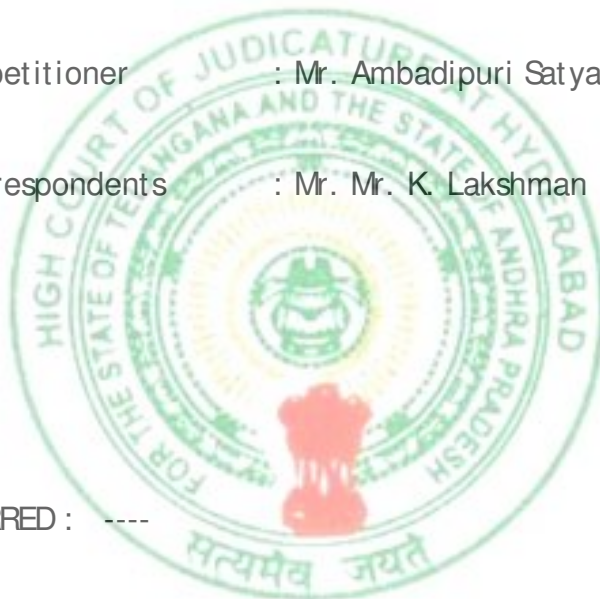
! Counsel for petitioner : Mr. Ambadipuri Satyanarayana

^ Counsel for respondents : Mr. Mr. K. Lakshman

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>HEAD NOTE:

? CASES REFERRED : ----



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WRIT PETITION No.11713 of 2018

ORDER: (Per V.Ramasubramanian, J)

Challenging a demand notice under Sections 13(2) and a possession notice under Section 13(4) of the Securitization Act, 2002, the petitioners, who were the erstwhile Directors of the borrower company, have come up with the above writ petition.

2. Heard Mr. Ambadipudi Satyanarayana, learned counsel for the petitioners.

3. The main grievance of the petitioners is that the bank, in order to help the borrower company, is now refusing to proceed against the primary securities which are worth about Rs.18.00 crores, but are proceeding against the house properties of the erstwhile Directors, not only putting to prejudice the guarantors, but also putting the Bank's own interest to prejudice. According to the petitioners the primary security is not an agricultural land, but in order to help the borrower and to deprive the bank of its legitimate dues, the Bank itself has taken a very strange objection that the primary security is an agricultural land.

4. However valid the above objections of the petitioners may be, they do not constitute a valid ground for by-passing the alternative remedy of appeal under Section 17 of the Act before the Tribunal. In Authorized Officer, State Bank of Travancore vs. Mathew K.C. (Civil Appeal No.1281 of 2018), dated 30.01.2018, the Supreme Court has recently cautioned against allowing the parties to by-pass the remedy of appeal.

5. Therefore, leaving it open to the petitioners to raise all issues including the one relating to non passing of the order under Section 13(A) of the Act before the Tribunal, the Writ Petition is dismissed.

6. Consequently, miscellaneous petitions if any pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

April 09, 2018

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