

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WP NO. 12418 of 2018

ORDER: (Per Hon'ble Sri. Justice V. Ramasubramanian)

Challenging the threat of dispossession, the guarantor who also happens to be the mother of one of the partners of the borrower firm has come up with the above writ petition.

Heard Mr. P. Durga Prasad, learned counsel for the petitioner and Mr. B.S. Prasad, learned standing counsel for the respondents 1 and 2.

The demand notice in this case was issued on 2.11.2015. Possession notice under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short "the SARFAESI Act") was issued on 27.1.2016 and published on 29.1.2016.

Challenging the possession notice, the petitioner came with a writ petition in WP No. 5675 of 2016. This writ petition was disposed of giving some breather to the petitioner till other items of properties are sold.

Thereafter the bank went before the Chief Judicial Magistrate under Section 14 of the SARFAESI Act and obtained an order. The said order dated 31.8.2016 became the subject matter of challenge in WP No. 33251 of 2016. The said writ petition was disposed of by this Court by an order dated 29.9.2016, recording an undertaking from the bank that the petitioner will not be dispossessed unless and until the mortgaged property belonging to the petitioner was sold after

following the procedure prescribed in the order of this Court in WP No. 5675 of 2016.

Thereafter auction notices were issued which became the subject matter of challenge before the Debts Recovery Tribunal in S.A. No. 92 of 2018. In the appeal the petitioner again sought interim orders. The Debt Recovery Tribunal ordered notice in the interlocutory applications. But in the meantime the bank sold the property, issued sale certificate and also confirmed the same.

Therefore, contending that before the disposal of the interlocutory applications by the Debts Recovery Tribunal the bank should not have proceeded further, the petitioner has come up with the above writ petition.

But the facts narrated above would show that on two writ petitions, she was granted some reprieve with certain directions. These directions have been complied with by the bank. Therefore, what the petitioner could not secure in the earlier rounds cannot be granted in this round. The petitioner should work out her remedies in the appeal filed before the Debts Recovery Tribunal.

With the above observations, the writ petition is dismissed.

As a sequel to thereto, miscellaneous applications, if any pending, shall stand closed. No orders as to costs.

JUSTICE V. RAMASUBRAMANIAN

Dt. 16.4.2018
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