

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.13048 OF 2018

Date:16.04.2018

Between:

Painty Suresh S/o.P.Mareppa and another

...Petitioners

Vs.

Union of India, Ministry of Finance,
Rep. by its Secretary, Sastry, Bhavan,
New Delhi and others

.. Respondents

For Petitioners : Mr.R.Sva SaiSwaroop

For Respondents : Sri K.Lakhsman, Asst.Solicitor General
Sri M.Srikanth Reddy

Gist :

Head Note :

Cases Referred : Nil



THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON' BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION No.13048 OF 2018

ORDER: (per Justice V. Ramasubramanian)

Challenging an order passed by the Chief Judicial Magistrate under Section 14 of the Securitization Act and the order of the Debts Recovery Tribunal confirming the same, the petitioners have come up with the above writ petition.

2. Heard Mr.R.Siva Sai Swaroop, learned counsel for the petitioners. Mr.M.Srikanth Reddy, learned counsel takes notice for the respondents.

3. The demand notice under Section 13(2) of the Act was issued on 05.7.2014. The possession notice under Section 13(4) of the Act was issued on 12.09.2014. Thereafter, an application under Section 14 of the Act was made before the Chief Judicial Magistrate, Kurnool in CrI.M.P.No.116 of 2014. It was allowed on 21.11.2014.

4. Challenging the order passed by the Chief Judicial Magistrate under Section 14 of the Act, the petitioners filed an appeal in SA No.1160 of 2017. By an order dated 28.02.2018, the Tribunal dismissed the said appeal. Therefore, the petitioners have come up with the above writ petition challenging the order of the Chief Judicial Magistrate as well as the order of the Debts Recovery Tribunal.

5. The Contentions of the learned counsel for the petitioners are two fold, namely, (a) that the ingredients of Clauses (i) to (ix) of Sub-section (1) of Section 14 of the Act are not satisfied, in the sense that the affidavit filed by the Bank was a very vague affidavit not containing

any particulars and (b) that the Chief Judicial Magistrate is not empowered to pass orders.

6. It is seen that the second question is pending consideration before the Supreme Court, in a batch of cases. A full bench of this Court has already made this position clear.

7. On the first question, since the petitioners want the Authorized Officer as well as the Chief Judicial Magistrate to go by the letter of the law, it is equally the duty of the petitioners to go by the letter of law by filing an appropriate appeal before the Debts Recovery Appellate Tribunal as against the order of the Debts Recovery Tribunal.

8. Therefore, leaving it open to the petitioners to pursue the alternative remedy of appeal, this writ petition is dismissed.

10. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

April 16, 2018

Note:
Furnish CC by tomorrow.
B/o.KTL