THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION Nos.14379 and 14794 of 2018

COMMON ORDER: (per SK, J)

The petitioners are the same in these two writ petitions. They are the borrowers who availed separate loan facilities from UCO Bank and IDBI Bank Limited. Their grievance in these two writ petitions is with regard to the independent orders dated 10.04.2016 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.Nos.269 and 271 of 2018 in O.A.No.249 of 2012. The said O.A. was filed by IDBI Bank Limited and upon assignment of its loan account, M/s.Pridhvi Asset Reconstruction & Securitization Company Limited, the assignee, stepped into its shoes. I.A.No.269 of 2018 was filed by the said company seeking an ad interim injunction restraining the borrowers, namely, petitioners 2 and 3 herein, from alienating the petition schedule properties pending disposal of the O.A. I.A.No.271 of 2018 was filed by the said company seeking a direction to the borrowers to furnish security to the extent of the O.A. claim of Rs.9,90,17,202/- and in default to pass an order of attachment before judgment against the petition schedule properties belonging to respondents 2 and 3 in the O.A., namely, petitioners 2 and 3. The petition schedule properties in the two I.A.s were not mortgaged with the IDBI Bank Limited / M/s.Pridhvi Asset Reconstruction & Securization Company Limited, but were the secured assets of UCO Bank in relation to the loan facilities extended by it to the petitioners. It appears that UCO Bank also assigned the said loan account of the borrowers to M/s. J.M. Financial Asset Reconstruction Company Limited, the fourth respondent herein.

Smt. V. Dyumani, learned counsel, entered appearance for M/s.Pridhvi Asset Reconstruction & Securitization Company Limited, while Smt. Kalpana Ekbote, learned counsel, entered appearance for M/s. J.M. Financial Asset Reconstruction Company Limited.

It is not in dispute that the assets offered by the borrowers on mortgage to UCO Bank and IDBI Bank Limited were distinct and separate. Therefore, the secured assets against which the said banks could proceed for recovery of their dues were also separate. However, by way of the subject I.A.s filed in O.A.No.249 of 2012, M/s.Pridhvi Asset Reconstruction & Securitization Company Limited wanted to proceed against unsecured assets in so far as it was concerned, unmindful of the fact that the said assets were mortgaged with UCO Bank and stood transferred as secured assets in the hands of M/s. J.M. Financial Asset Reconstruction Company Limited, upon assignment.

Smt. V. Dyumani, learned counsel, concedes that even if her client secures an order of attachment in relation to the said assets which now stand mortgaged with M/s. J.M. Financial Asset Reconstruction Company Limited, the same would be subject to the rights of the said company which would have the first charge over the said assets. We therefore make it clear that notwithstanding the orders dated 10.04.2018 passed by the Debts Recovery Tribunal-I, Hyderabad, in I.A.Nos.269 and 271 of 2018 in O.A.No.249 of 2012, the petition schedule properties therein, which stand under the first charge created by way of a mortgage in favour of UCO Bank, now stand transferred in favour of its assignee M/s. J.M. Financial Asset Reconstruction Company Limited. The Tribunal shall be mindful of this first charge while dealing with the claim of M/s.Pridhvi Asset Reconstruction & Securitization Company Limited in the said O.A.

The writ petitions are disposed of with the above observations.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

3rd JULY, 2018.

T. AMARNATH GOUD, J

kvni