

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.10253 of 2007

ORDER :

This writ petition is filed seeking a writ of mandamus declaring the action of the respondents in evicting the petitioner from the peaceful possession and enjoyment of Flat No.4, II Floor, Sector B-1, Krupa Apartments, Picket, Boosareddyguda, Secunderabad, in pursuance of the orders dated 18.04.2007 made in CrI.M.P.No.1906 of 2007 on the file of Chief Metropolitan Magistrate, Hyderabad, as illegal, arbitrary and unjust and set aside the order dated 18.04.2007.

2. Heard Sri B.Kamalakar Rao, learned counsel for the petitioners and Sri Srinivas Chitturu, learned standing counsel for the first respondent.

3. It has been contended by the petitioners that the first petitioner is the absolute owner and possessor of Flat No.4, II Floor, Sector B-1, Krupa Apartments, Picket, Boosareddyguda, Secunderabad and she has believed her friends, who in turn, have cheated her and mortgaged her property with the first respondent-Bank and the first respondent-Bank had initiated the proceedings under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (for short 'SARFAESI Act'). Challenging the said proceedings, the present writ petition is filed. It has been further contended that during the pendency of this writ petition, the first petitioner has died and her legal heirs have been impleaded in the writ petition as petitioner Nos.2 to 5.

4. Since the issue pertains to SARFAESI Act, the Hon'ble Supreme Court in a case reported in **Authorized Officer, State Bank of Travancore vs. Mathew K.C.**(LAWS (SC) 2018 1 45) has held that in all these matters, one must approach Debt Recovery Tribunal for their grievance, but they cannot approach this Court bypassing the efficacious remedy provided under Section 17 of the SARFAESI Act.

5. Following the above, this writ petition is dismissed giving liberty to the petitioners to approach the Debt Recovery Tribunal for pursuing their remedies. The learned counsel for the petitioners contends that within one week he would approach the Debt Recovery Tribunal and till such time, the status quo order shall be maintained. This Court having considered the said contention extends the status quo order for a period of one week from today and if the petitioners do not approach the Debt Recovery Tribunal within one week, the status quo order granted, stands automatically vacated. No costs.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

02 April, 2018

Note: Issue C.C. by 03.04.2018
(B/o)
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