

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON' BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION No.16574 OF 2018

ORDER: (per V. Ramasubramanian, J)

Challenging the action of the respondents 1 and 2 in proceeding against an agricultural land under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the petitioner has come up with the above writ petition.

2. Heard Mr.Sai Gangadhar Chamorthy, learned counsel for the petitioner.

3. It appears that the property in question was owned by a family. The father created a mortgage for the loan taken by him from the Bank. After the loan became a non-performing asset, the Bank has initiated proceedings under the Securitisation Act, 2002. The only contention with which the petitioner has come up with the above writ petition is that the property is an agricultural land and that therefore, it is exempted under Section 31(i) of the Act. The petitioner also relies upon a suit filed by the petitioner for partition.

4. But the question whether the land is an agricultural land or not is a question of fact which the petitioner should first adjudicate before the Debts Recovery Tribunal in an appeal under Section 17 of the Act. Though the petitioner claims that she is a third party, not entitled to go before the Tribunal, the petitioner is admittedly the daughter of the deceased guarantor. Therefore, in that capacity the petitioner can very well approach the Tribunal.

5. Hence, the writ petition is dismissed leaving it open to the petitioner to approach the Tribunal.

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

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

May 01, 2018
KTL

