

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

WRIT PETITION No. 19275 of 2018

ORDER: *(per Hon'ble Sri Justice Sanjay Kumar)*

The prayer of the petitioner in this case reads as under:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a Writ or Order more particularly one in the nature of mandamus declaring the action of the Respondent No.1 is void and, and the action of the respondent as illegal and arbitrary and consequently declare the order passed in S.A.No.288 of 2013 dated 01.05.2018 passed by the Hon'ble Debts Recovery Tribunal, Hyderabad, as null and void and not binding on the petitioner herein, or pass such other order or orders as this Hon'ble Court deem fit and proper in the circumstances of the case, in the interests of justice.”

The petitioner approached the Debts Recovery Tribunal - I, Hyderabad, under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), by way of S.A.No.288 of 2013. Therein she contended that the property which was in her possession, pursuant to the registered sale deed bearing document No.2087/2009 dated 11.04.2009, was made the subject matter of proceedings under the SARFAESI Act by the State Bank of India without any legal right. Having considered this contention, the Tribunal held against the petitioner. Aggrieved thereby, she chose to file the present writ petition.

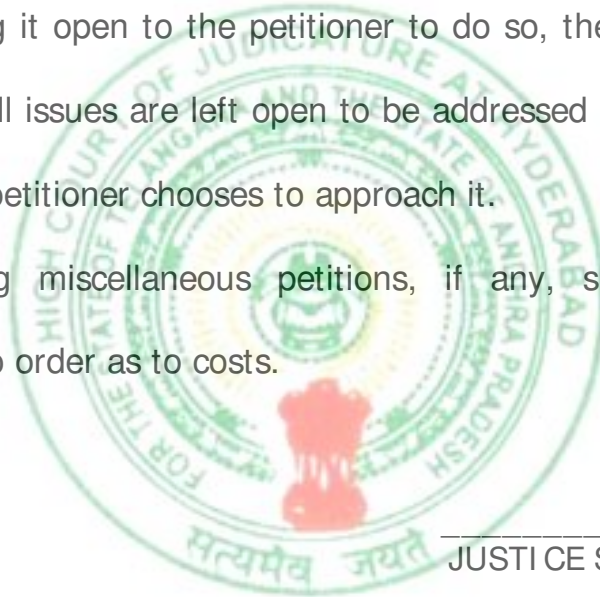
Sri L.K. Sharma, learned counsel for the petitioner, does not deny the fact that the petitioner is provided the remedy of appeal against the order sought to be challenged, under Section 18 of the

SARFAESI Act. The affidavit filed in support of the writ petition does not even mention any reason as to why the petitioner ignored the appeal remedy available to her and chose to file this writ petition.

In the light of the hierarchy of remedies provided under the SARFAESI Act and given the fact that the petitioner invoked Section 17 of the SARFAESI Act and filed a Securitisation Application, we are of the opinion that she should take recourse to the appeal remedy provided to her under the statute in accordance with law, if she is aggrieved by the order passed in the Securitisation Application.

Leaving it open to the petitioner to do so, the writ petition is dismissed. All issues are left open to be addressed by the appellate forum if the petitioner chooses to approach it.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



JUSTICE SANJAY KUMAR

Date: 12.06.2018

JUSTICE T. AMARNATH GOUD

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