

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

WRIT PETITION No.18328 of 2018

ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

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

'To issue a writ, order or direction, one more particularly in the nature of a Writ of Certiorari declaring the order of the Debts Recovery Appellate Tribunal, Kolkata dated 17.05.2018 made in Tender No.16/2018 confirming the order of the Debts Recovery Tribunal-I, Hyderabad dated 02.05.2018 made in S.A.No.102/2018 as being arbitrary, illegal and contrary to the provisions of the SARFAESI Act, 2002 and consequently grant stay of all further proceedings in pursuance of the possession notice dated 19.12.2014 and the consequential order dated 21.03.2018 made in Crl.M.P.No.61/2018 pending disposal of the S.A.No.102/2018 pending disposal of the S.A.No.102/2018 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

2. Sri P.Sri Harsha Reddy, learned counsel for the petitioners, fairly concedes that the document in relation to which proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the Act) were initiated by the IDBI Bank, the first respondent herein, stood in the name of their brother, the second respondent herein, who created a security interest therein while availing a loan from the said bank. When the petitioners approached the Debt Recovery Tribunal-I, Hyderabad (for short, Tribunal) by way of S.A.No.102 of 2018 under Section 17 of the Act in relation to the proceedings initiated by the bank under the said enactment, order dated 02.05.2018 was passed by the Tribunal granting conditional relief

to the petitioners. Aggrieved by the conditions imposed upon the petitioners, they chose to file an appeal in Tender No.16 of 2018, 232 before the Debts Recovery Appellate Tribunal at Kolkata (for short, Appellate Tribunal). The Appellate Tribunal, by order dated 17.05.2018, dismissed the appeal observing that the appellants before it were not able to prove their title over the schedule property and that no case was made out for interference.

3. Given the admitted fact that the petitioners concede that the security interest was created by the second respondent in relation to a property which stands in his name alone, we do not find any illegality in the order passed by the Appellate Tribunal. As the securitisation application filed by the petitioners is still pending consideration before the Tribunal, it is for them to pursue the same to its logical end.

4. We therefore find no grounds for interference and the writ petition is accordingly dismissed. We however make it clear that this order or the pendency of the securitization application would not preclude the petitioners or the second respondent from settling the loan account with the IDBI bank in accordance with law. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Date: 12.06.2018
TJMR