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

WRIT PETITION No.22856 of 2018

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

The petitioners are aggrieved by the order dated 01.05.2018 passed by the Debts Recovery Tribunal-I at Hyderabad in I.A.No.1422 of 2017 in SA.IR.No.158 of 2017.

2. The said IA was filed by the petitioners, the applicants in SA.IR.No.158 of 2017, under Section 5 of the Limitation Act, 1963 seeking condonation of the delay of 101 days in the presentation of the Securitization Application under Section 17(1) of the Securitization and Reconstruction of Secured Assets and Enforcement of Interest Act, 2002.

3. By the order dated 01.05.2018, the Tribunal opined that Section 5 of the Limitation Act, 1963 would not have application to Section 17 of the SARFAESI Act and that it had no power to condone the delay in the presentation of an application under Section 17 of the SARFAESI Act. In consequence, the Tribunal dismissed the said IA.

4. Despite service of notice, the Indian Overseas Bank, the respondent herein, did not choose to enter appearance before this Court.

5. Heard Sri Amancharla V.Gopala Rao, learned counsel for the petitioners.

6. Learned counsel would point out that the issue is squarely covered by the decision of a Division Bench of this Court in **Porus Laboratory Pvt. Ltd. V/s Indian Bank**[1]. In terms of the aforestatd decision, a Division Bench of this Court comprising one of us, (SK,J), and another learned Judge held to the effect that Section 5 of the Limitation Act, 1963 would have application to Section 17 of the SARFAESI Act also.

7. In that view of the matter, the Tribunal was not correct in non-suiting the petitioners on the ground that it had no power to condone the delay in the filing of the Securitization Application. The Docket Order dated 01.05.2018 is accordingly set aside and the I.A.No.1422 of 2017 is restored to the file of the Debts Recovery Tribunal-I at Hyderabad for consideration afresh on its merits and in accordance with law. In the event the Tribunal finds sufficient cause for condonation of the delay, it shall proceed to condone the same and take up the Securitization Application on merits.

8. The writ petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J

T.AMARNATH GOUD, J

Date: 24.07.2018
TJMR

[1] 2018 (4) ALT 283