

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND**

HON'BLE SRI JUSTICE P. KESHA RAO

Writ Petition No.23247 of 2018

17-12-2018

Between:

M/s. Lalitha Multi Colour Graphics, a partnership firm
represented by its Managing Partner, D.L.V. Subba Rao,
S/o China Galaiah, D.No.30-2-19, Murthy Street,
Arundalpet, Vijayawada

... Petitioner

And

The Authorised Officer, M/s. Indian Bank,
Mutyalampadu Branch, Vijayawada.

... Respondent

! Counsel for the Petitioner : Mr. Almas Mohammed

^ Counsel for Respondents : Mr. Ambadipudi Satyanarayana,
Standing counsel

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P. KESHA RAO

Writ Petition No.23247 of 2018

ORDER: *(per V. Ramasubramanian,J)*

Complaining that the machinery, which was not under hypothecation, has been sold by the Authorised Officer of the Bank in exercise of the power conferred under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act, 2002), a borrower has come up with the above writ petition.

2. Heard Mr. Almas Mohammed, learned counsel for the petitioner and Mr. Ambadipudi Satyanarayana, learned counsel for the respondent.

3. The main grievance of the petitioner is that though they obtained a loan and hypothecated a machinery, the bank proceeded to sell a machinery, which was not under hypothecation to the bank. The petitioner has produced the invoice relating to the hypothecated machinery and the rental agreement relating to the machinery, which is not under hypothecation.

4. But the fact remains that the machinery was already sold and possession was handed over to a party by name M/s. Kamala Offset Printers, Gandhi Nagar, Vijayawada. Therefore, the identity of the machinery and the question whether what was sold was the hypothecated machinery or not is a question of fact, which the

Tribunal alone is competent to go into. It becomes a disputed question of fact, which cannot be adjudicated in this writ petition.

Therefore, leaving it open to the petitioner to go before the Debts Recovery Tribunal under Section 17 of the Securitisation Act, 2002, the writ petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

Date: 17-12-2018

Ksn

