

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.34015 OF 2018

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

The possession notice issued by the first respondent-Bank on 07.10.2015, and the subsequent appointment of the Advocate-Commissioner in CrI.M.P.No.395 of 2018, are questioned in this Writ Petition as arbitrary and illegal.

The petitioner filed S.A.No.247 of 2015 before the Debts Recovery Tribunal, Visakhapatnam (DRT) questioning the possession notice dated 07.10.2015 as arbitrary and illegal. The DRT, by its order dated 18.09.2017, dismissed the S.A. as devoid of merits. The said order of the DRT has not been subjected to challenge, and has thereby attained finality.

It is not open to the petitioner, therefore, to now question the possession notice dated 07.10.2015, a challenge to which was rejected by the DRT in its order in S.A.No.247 of 2015 dated 18.09.2017. The warrant executed by the Advocate-Commissioner, pursuant to proceedings being initiated under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("the SARFAESI Act" for brevity) in CrI.M.P.No.395 of 2018, is long after the DRT had passed orders in S.A.No.247 of 2015 dated 18.09.2017. As long as the order of the DRT remains in force, it would wholly inappropriate for us to permit the petitioner to question the notice, issued under Section 13(4) of the SARFAESI Act on 07.10.2015, in

writ proceedings under Article 226 of the Constitution of India, when the challenge to the said notice before the DRT failed.

Sri K.Jagadishwar Reddy, learned counsel for the petitioner, submits that the petitioner would take steps to question the validity of the order of the DRT in appropriate legal proceedings. Leaving it open to the petitioner to do so, in accordance with law, the Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

20th September 2018
RRB

