

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION No.36573 OF 2018

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

The proceedings under challenge in this writ petition is the possession notice issued under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') dated 17.07.2018.

The petitioner's case, in short, is that he had obtained a home loan for Rs.30,00,000/- repayable over a period of 10 years with interest @ 9.25% per annum; the EMI was for Rs.38,410/- for a period of 120 months; the petitioner had paid EMI for 136 months; and yet the Bank was seeking repayment of Rs.19,57,896/-.

Whether the respondent Bank is justified in claiming the aforesaid amount, and whether the petitioner has paid more than the amount due and payable by him to the respondent Bank, are all questions of fact, which this Court would not, ordinarily, examine in proceedings under Article 226 of the Constitution of India, more so as the petitioner has the statutory remedy of invoking the jurisdiction of the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. We see no reason, therefore, to exercise discretion to entertain the writ petition under Article 226 of the Constitution of India.

The Writ Petition fails and is, accordingly, dismissed leaving it open to the petitioner to avail the remedy available under Section

17 of the SARFAESI Act. There shall be no order as to costs.
Miscellaneous petitions, if any, pending shall also stand dismissed.

(RAMESH RANGANATHAN, J)

(D.V.S.S.SOMAYAJULU, J)

Date: 24.10.2018
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