

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

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS.JUSTICE J. UMA DEVI**

WRIT PETITION No.38581 OF 2018

Date:26.10.2018

Between:

Pavan Kumar Thunga S/o.Late Sri Sambaiah Thunga,
Aged 59 years, Occ: Business, R/o.Chikkadapally,
Hyderabad.

... Petitioner

v.

Punjab National Bank, Bank Street,
Abids, Hderabad, Rep. by its Authorised
Officer and others.

.. Respondents

For Petitioner : Mr. P. Rajesh Babu

For Respondents : Mr. M.V.K. Viswanatham

Gist :

Head Note :

Cases Referred : Nil

C/15

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS.JUSTICE J. UMA DEVI

WRIT PETITION No.38581 OF 2018

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

The petitioner has come up with the above writ petition challenging and order passed by the Chief Metropolitan Magistrate in an application under Section 14 of the Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "Securitization Act").

2. Heard Mr. P. Rajesh Babu, learned counsel for the petitioner and Mr. MVK Viswanatham, learned Standing Counsel for the 1st respondent Bank.

3. This is a case where the notice under Section 13 (2) of the Securitization Act was issued way back in the first half of 2015 and a possession notice under Section 13 (4) of the Securitization Act was issued thereafter and E-auction notice was issued on 25.07.2015. Challenging the possession notice and auction notice, the petitioner already approached the Debts Recovery Tribunal in SA No.390 of 2015.

4. During the pendency of the appeal before the Tribunal, when the Bank attempted to take possession, the petitioner approached this Court by way of a writ petition in WP No.31281 of 2015. The said writ petition was disposed of by an order dated 02.12.2015 directing the Tribunal to dispose of SA No.390 of 2015 within two months and

granting an interim protection to the petitioner till the disposal of the appeal by the Debts Recovery Tribunal.

5. Having secured such a reprieve from the Tribunal and this Court, the petitioner also attempted to have a one time settlement but he could not make payment. Eventually, the bank approached the Chief metropolitan Magistrate and obtained a fresh warrant to a new Commissioner, after which the petitioner has come up with the present writ petition.

6. In the meantime, one of the tenants in the property filed a writ petition in WP No.8969 of 2018. That writ petition was disposed of by this Court by an order dated 11.04.2018 giving him time to vacate the property by 30.06.2018 and giving liberty to the bank to take possession of the remaining three floors. It is only thereafter the petitioner has come up with the above writ petition.

7. As seen from the narration of facts given above, the first round of litigation challenging the possession notice under Section 13 (4) of the Securitisation Act and E-auction notice, has attained finality by the order of the Tribunal dated 22.04.2017 in SA No.390 of 2015. The case of the petitioner is that after the amendment to the Securitisation Act, an affidavit had to be filed under Section 14 of the Securitisation Act and that the same has not been filed. In other words, a fresh cause of action is sought to be weaved not out of fresh facts, but out of fresh law. If that is so, the appropriate remedy for the petitioner is only to go before the Tribunal.

8. Therefore, leaving it open to the petitioner to go before the Tribunal, the writ petition is dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

October 26, 2018

KTL

