

**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 MS. JUSTICE J. UMA DEVI**

Writ Petition No.39331 of 2018

Date: 01-11-2018

Between:

Ms. Anitha Babu Gowda, D/o late Rambabu, aged
About 36 years, Private Employee, R/o H.No.51-15-35/A,
Kranthi Nagar, NH5, Near Satyam Junction,
Visakhapatnam District. s

... Petitioner

And

Authorised Officer, Andhra Bank, Madhavanagar
Branch, Sri Yaduvamsi, Door No.39-27-3/2,
NH-5, near Geological Survey of India, Madhavadhra,
Visakhapatnam Zonal Office, Visakhapatnam and
9 others

... Respondents

! Counsel for the Petitioner : Mr. S.V. Indira

^ Counsel for 1st Respondent : G.P. for Revenue (AP)

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.39331 of 2018

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

Challenging a possession notice dated 04-09-2018 issued by the Authorised Officer of the Bank under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitisation Act, 2002)", the petitioner, who claims to be the true owner of the property, who never borrowed any money and who never mortgaged her property, has come up with the above writ petition.

2. Heard Smt. S.V. Indira, learned counsel for the petitioner.

3. The main contention of the petitioner is that she never borrowed any money from the bank and she never mortgaged her property and that some third parties by fabricating and creating forged documents had obtained a loan on the security of a property, which belongs to the petitioner and defrauded both the bank as well as the petitioner. The petitioner has already given a police complaint and investigation is pending. Therefore, the case of the petitioner is that when the investigation into a complaint of forgery, fabrication etc., are pending, the bank cannot proceed against her property.

4. A question of fraud is a pure question of fact. It is something that a writ court will not go into. If some body had played a fraud upon the bank or a true owner of the property, such fraud had to

come out in the form of evidence and not in the form of pleadings, affidavit and counter affidavits. Such questions are to be decided either by the Tribunal in an appeal under Section 17 of the Act or if permissible, in a Civil Court. Though there is a doubt as to whether a civil suit is maintainable or not, we need not go into the question for the present for the simple reason that fraud may avoid all solemn acts and the proper remedy may be either to go to civil court or to the Tribunal as the petitioner may be properly advised. Hence, giving this liberty to the petitioner to workout her legitimate rights in the manner known to law, 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

J. UMA DEVI, J

Date: 01-11-2018

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