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

+ Writ Petition No.41910 of 2018

% Date: 20-11-2018

Nimmagadda Raja Giridhar Kumar S/o Janardhan Rao,
Aged 50 years, Occ: Business, R/o Plot No.1046,
Road No.52, Jubilee Hills, Hyderabad-34

... Petitioner

Vs.

$ 1. Punjab National Bank, Corporate Office at Plot No.4,
Sector-10, Dwarka, New Delhi-110 075,
Rep. by its Managing Director and Executive Officer

2. The Chief Manager, Punjab National Bank,
Circle Office, 2nd Floor, Saeed Plaza,
Lakdikapool, Hyderabad

3. The Branch Manager, Punjab National Bank,
H.No.9-4-84/8, Kakatiyanagar, Nanal Nagar X Road,
Second Lancer, Hyderabad-500 008

4. Yennam Venkata Siva Reddy S/o Late Boreddy,
Aged 55 years, Occ: Business, R/o Plot Nos.147 & 157,
Mounika Rock Hills, Rock Town Colony,
L.B. Nagar, Hyderabad-500 068

... Respondents

! Counsel for Petitioner: Mr. M.Naga Raghu

Counsel for Respondents: ---

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> Head Note:

? Cases referred:
Nil.

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Order: (per V.Ramasubramanian, J.)

Contending that in respect of a property owned by him, the 4th respondent, in collusion with the officials of the Bank, have created a security interest and are attempting to proceed under the Securitisation Act, 2002, the petitioner has come up with the above writ petition.

2. Heard Mr. M.Naga Raghu, learned counsel for the petitioner.

3. The pure and simple case of the petitioner is that the petitioner is the absolute owner of the property in question and that the 4th respondent, in collusion with the officials of the Bank, created documents as though he is the owner of the property and also secured a loan. Upon coming to know of the same, the petitioner has given a representation dated 25-10-2018 to the Chief Manager. Thereafter, the petitioner has come up with the above writ petition seeking a *mandamus* to direct the Chief Manager to whom the representation was given, to conduct a detailed enquiry.

4. We do not think that such a *mandamus* can be issued. If what the petitioner says is true and if the petitioner is actually a victim of fraud committed by the officials of the Bank, it is not fair to ask the same officials of the Bank to enquire into the representation given by the petitioner. Fraud

is a question of fact. The same cannot be determined in a writ petition under Article 226 of the Constitution of India. Fraud requires evidence to be let in to prove the same.

5. The Supreme Court held in ***Authorised Officer, State Bank of Travancore v. Mathew K.C.***[1] that all questions of fact can be gone into by the Debts Recovery Tribunal and that the definition of the expression "any person" appearing in Section 17 of the Securitisation Act, 2002, would include even third parties. Therefore, leaving it open to the petitioner to go before the Debts Recovery Tribunal, this writ petition is dismissed. Pending applications, if any, shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

20th November, 2018.

Note:-
Issue C.C. today.
(B/o)
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[1] (2018) 3 SCC 85

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<u>Writ Petition No.41910 of 2018</u>
(per VRS, J.)

20th November, 2018.
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