

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.45045 OF 2018

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Challenging the measures taken by the Authorized Officer of the State Bank of India under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Act, 2002'), the borrower has come up with the above Writ Petition.

2. Heard Sri K. A. Narasimham, learned counsel for the petitioner.

3. It is the case of the petitioner that they availed credit facility from the 1st respondent bank and also mortgaged the properties owned by them as security. The account was classified as a Non-Performing Asset and thereafter a demand notice under Section 13 (2) of the Act, 2002 was issued on 06.07.2018. It was followed a possession notice under Section 13 (4) of the Act, 2002, dated 25.10.2018.

4. Contending that the very act of the bank in classifying the account of the petitioner as a Non-Performing Asset (NPA) was contrary to the Reserve Bank of India's Master Circular, dated 02.07.2012, and that the objections submitted by them in this regard were not properly considered, the petitioner has come up with the above writ petition.

5. It is contended by Mr. K.A. Narasimham, learned counsel for the petitioner that they have been very prompt in repayment of the loan and that their business unit was declared as partially viable disentiing the bank to classify the account as Non-Performing Asset and that therefore the measures taken by the bank under the Act, 2002 are liable to be set at naught.

6. We have carefully considered both the submissions.

7. It is seen from the contentions of the learned counsel for the petitioner that the petitioner is raising factual issues. The question as to whether a borrower was prompt in repayment or not and the question as to whether the account could have been declared as NPA or not, is a question of fact which must get adjudicated first before the Debts Recovery of Tribunal (DRT). It is not open to this Court to get into questions of fact, by acting as a Court of first instance.

8. Therefore, leaving it open to the petitioner to work out their remedies before the DRT, this Writ Petition is dismissed. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

December 19, 2018
AK/Mgr