

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

**HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHA RAO**

Writ Petition No.46275 of 2018

Between:

A. Chandra Sekhar, S/o A. Pentaiah, aged about
43 years, Occ: Business, R/o H.No.12-13/706/2,
Kimtee Colony, Nagarjuna Nagar, Tarnaka,
Secunderabad.

... Petitioner

And

Bank of Baroda, represented by its Branch Manager,
Ramanthapur Branch,

... Respondent

! Counsel for the Petitioner : P.N. Nalinikanth

^ Counsel for Respondents : None appeared

HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

Writ Petition No.46275 of 2018

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

Challenging a notice issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act, 2002), the borrower has come up with the above writ petition contending that all mandatory requirements provided in every one of the sections of the Securitisation Act, 2002 has been violated in the impugned order.

2. Heard Mr. P. N. Nalinikanth, learned counsel for the petitioner.

3. A demand notice under Section 13 (2) of the Securitisation Act, 2002 is nothing but a wake up call for a borrower to discharge the liabilities within sixty days from the date of receipt of notice. In response to a notice under Section 13(2), a borrower or the noticee is obliged to give a reply. Upon receipt of reply, the Authorised Officer is entitled to consider the same and pass orders under Section 13 (3A) of the Act. It is only thereafter that the Authorised Officer may take recourse to any one of the measures mentioned in sub-section (4) of Section 13 of the Act.

4. It is only at the stage when any of the measures indicated in sub-section (4) of Section 13 are taken that the borrower or any

other will have a cause of action to come to court. In fact, a Full Bench of Allahabad High Court has gone to the extent of saying that even a possession notice under Section 13 (4) of the Act will not give rise to a cause of action for a person to come to court. We are not going so far.

5. According to the learned counsel for the petitioner, no proceeding under the Securitisation Act 2002 including the issue of a notice under Section 13 (2) of the Act can be initiated, unless the requirements of Section 26D namely that of registering the security interest with the Central Registry created under Section 20 of the Act, had been carried out. But, there is no prohibition for the petitioner to raise such a legally valid ground by way of reply to the demand notice and switch of the demand made by the Authorised Officer. Therefore, the writ petition is premature and hence, it is dismissed. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

Date: 20-12-2018

Ksn