* 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. KESHAVA RAO

+W.P.Nos.45838 & 45875 of 2018

% Date: 18-12-2018

W.P.No.45838/2018

#Between:

M/s. Shanti Kailash Jewellers,
Rep. by its Proprietor Sri Shankarlal Jain,
S/o. Sri Shantilal Seshmalji,
R/o. 23/973, Jewel Junction, Achari Street,
Nellore, Andhra Pradesh.

…. Petitioner

And

The Syndicate Bank
Dargamitta Baranch, Near KVR Petrol Bunk,
Nellore – 524003 (AP) rep. by
Assistant General Manager Authorized Officer.

…. Respondent

W.P.No.45875/2018

#Between:

M/s. Shantilal & Sons Jewellers,
Rep. by its Proprietor Sri Sheshmalji,
S/o. Sri Seshmalji, R/o. 23/973,
Jewel Junction, Achari Street, Nellore, (A.P.)

…. Petitioner

And

The Syndicate Bank
Dargamitta Baranch, Near KVR Petrol Bunk,
Nellore – 524003 (AP) rep. by
Assistant General Manager Authorized Officer.

…. Respondent

! Counsel for the Petitioner : Mr. L. Ravichander Sr. Counsel
Representing Mr. Deepak Misra

^ Counsel for Respondent : Mr. E. Madan Mohan Rao S.C

<GIST:
> HEAD NOTE:
? Cases referred

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHAVA RAO

W.P.Nos.45838 & 45875 2018

COMMON ORDER: (Per VRS,J)

Aggrieved by the rejection of the representation for One Time Settlement, the borrowers have come up with the above writ petitions.

2. Heard Mr. L. Ravichander, learned Senior Counsel for the petitioners.

3. The account of the petitioners with the respondent-bank became a non-performing asset, forcing the Bank to issue notice of demand on 31.08.2018 and 14.09.2018 under Section 13(2) of the SARFAESI Act, 2002. The purpose of the issue of demand notice is to enable the parties to file reasonable objections or to make a representation for settlement of dues.

4. Availing the opportunity provided by the demand notice, the petitioners issued a legal reply through their counsel running to about 10 pages.

5. After considering the objections raised through the legal notice, the Bank passed an order under Section 13(3A) rejecting the contentions and also advising the petitioners, if they so desired, to avail the schemes for One Time Settlement, prevailing at that time.

6. Thereafter, the petitioners made fresh representation dated 23.11.2018, but the same was rejected by a letter dated 01.12.2018. It is against the said rejection that the petitioners are before us.

7. The upshot of the discussion is that the Bank is yet to take measures under Section 13(4). Till measures are taken under Section 13(4) the borrower will not have a cause of action to come to the Court.

After the measures are taken under Section 13(4), the borrower should normally go to the Debts Recovery Tribunal. Therefore, leaving it open to the petitioners to approach the Tribunal as and when measures are taken under Section 13(4), the writ petition is dismissed. There will be no order as to costs.

8. As a sequel, pending miscellaneous petitions, if any, will stand closed.

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V. RAMASUBRAMANIAN, J.

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P. KESHAVA RAO, J.

18th December, 2018
Js.

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHAVA RAO

W.P.Nos.45838 & 45875 of 2018

18th December, 2018

Js.