

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAHA RAO

WRIT PETITION No. 1408 of 2019

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

1) Challenging a sale notice dated 10.01.2019, issued under Rule 8 (6) of the Security Interest (Enforcement) Rules, 2002, the petitioner has come up with the above writ petition.

2) Heard Mr.C.Hari Preeth, learned counsel for the petitioner.

3) It appears that the demand notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, was issued by the bank on 02.05.2016. It was followed by a possession notice dated 08.07.2016. The same was challenged by the petitioner by way of an appeal under Section 17 of the Securitisation Act, 2002 in S.A.No.333 of 2016. This appeal was dismissed by the Tribunal by an order dated 27.11.2018. This order has attained finality. Therefore, the banks right to proceed under the Securitisation Act cannot now be questioned.

4) The main contention of the learned counsel for the petitioner is that even before the dismissal of their appeal by the Debts Recovery Tribunal, the petitioner had made an application on 21.05.2018 for

one time settlement and that without considering the same, the bank is proceeding with the sale.

5) But there is no mandate of law that a unilateral offer by a borrower to repay a particular sum of money under one time settlement should be accepted by the bank. As a matter of fact, the petitioner had made an offer long time ago which was rejected on 17.01.2018 by the bank. By going on making renewed offers every time, the borrower cannot stall the initiation of proceedings under the Securitisation Act.

6) As we have pointed out earlier, the measure taken under Section 13 (4) of the Act was unsuccessfully challenged by the petitioner before the Debts Recovery Tribunal. If the petitioner has any subsequent cause of action the same should also be ventilated only before Debts Recovery Tribunal. Therefore, the writ petition is dismissed. It will be open to the petitioner to go back to the Debts Recovery Tribunal if any subsequent cause survives.

As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

January 28, 2019
gkv/Mgr

