

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

WRIT PETITION No.1958 of 2019

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

Challenging the order passed by the Debts Recovery Tribunal – I, Hyderabad, in an appeal under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short “the SARFAESI Act, 2002”), the grand-daughter of the person who created the mortgage, has come up with the above Writ Petition.

Heard Mr.M.Sudheer Kumar, learned Counsel for the petitioner and Mr.E.Madan Mohan Rao, learned Standing Counsel for the 1st respondent – Bank.

The main grievance of the petitioner is that the secured asset sought to be proceeded against, belonged originally to the maternal grand-father of the petitioner and that the property was a joint family property, which could not have been offered as a security by respondents 2 and 3 and that serious issues raised by the petitioner, were simply rejected in one paragraph by the Tribunal without any discussion. According to the learned Counsel, written submissions were also made, none of which was considered by the Tribunal. In other words, his

contention is that the order impugned is a laconic order, which does not deal with any of the issue.

But, the petitioner has an effective alternative remedy of appeal before the DRAT. Whenever, issues of fact are raised, but are neither considered nor considered wrongly, the proper course of action should be to go before the Appellate Tribunal. The Appellate Tribunal is entitled to appreciate even the issues of fact. The limitation for filing of an appeal is not yet over.

Therefore, giving liberty to the petitioner to approach the DRAT, the Writ Petition is dismissed. Even if there is small delay in the petitioner approaching the DRAT, the Appellate Tribunal may take a lenient view. No order as to costs.

Consequently, miscellaneous petitions, if any pending, in the Writ Petition shall stand closed.

V.RAMASUBRAMANIAN, J

Dr.SHAMEEM AKTHER, J

18.02.2019

*Note: Registry to return the original
Impugned order to the learned Counsel
for the petitioner.*

Gsn.

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