

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
&
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.2705 of 2019

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

Challenging the dismissal of an appeal filed under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for the 'the Act'), a third party has come up with the above writ petition.

2. Heard Mr. Srinivasa Reddy, learned counsel for the petitioner and Smt. V. Dyumani, learned standing counsel for the respondent bank.

3. The petitioner challenged the measures taken under the Act, before the DRT, by way of an appeal in SA.No.1036 of 2017 on the short ground that the mortgage was created fraudulently by forging her signature in a sale deed on a date on which she was not available in India. But the tribunal recorded a finding of fact that the mortgager, the second respondent herein, was none other than the maternal uncle of the petitioner and that the sale deed was also attested by the petitioner's mother. The tribunal also recorded a finding that the petitioner was very much present on the date of execution of the sale deed, in India.

4. Therefore, factual issues arise in the above writ petition. In such circumstances, the appropriate course of action open to the petitioner would only be to go before the Debts Recovery Appellate Tribunal. Hence, leaving it open to the petitioner to go before the appellate

tribunal, this writ petition is dismissed. The original impugned order, if filed, may be returned to the petitioner.

Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 19, 2019
DSK

