

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO

W.P.No.3003 OF 2019

ORDER:

(Per Sanjay Kumar, J)

1 The petitioner filed Securitisation Application No.158 of 2018 before the Debts Recovery Tribunal-I, Hyderabad, seeking multiple reliefs. One of the reliefs sought was a declaration that the order passed on 12.7.2018 by the learned Chief Metropolitan Magistrate, Cyberabad, in CrI.M.P.No.402 of 2018, in exercise of power under Section 14 of the SARFAESI Act, 2002, was illegal. Another relief sought by the petitioner was to declare the pre-auction Sale Notice issued by the State Bank of India under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, also as illegal. Challenge was also made by the petitioner to the earlier Possession Notice dated 14.5.2018 and the Demand Notice dated 28.12.2017 issued by the Bank.

2 By order dated 23.01.2019, the Tribunal opined that the Securitisation Application was barred by limitation as the Possession Notice and the Sale Notice were challenged beyond 45 days. Aggrieved by the dismissal of the Securitisation Application, the petitioner approached this Court.

3 Heard Ms. Hamsa Durga, learned counsel appearing for Sri P. Ramesh Babu, learned counsel for the petitioner, and Sri M. Srikanth Reddy, learned counsel for the State Bank of India.

4 When multiple reliefs were sought in the Securitisation Application, each based on a separate cause of action, the Tribunal necessarily had to examine as to whether the application would be within time in the context of each such relief in the context of the date on which the cause of action arose therefor. The Tribunal therefore had to take account of the fact that the petitioner challenged the order passed on 12.7.2018 under Section 14 of the

SARFAESI Act, 2002, which would be within stipulated period of 45 days under Section 17 (1) of the SARFAESI Act, 2002, as the Securitisation Application was filed on 27.7.2018. Significantly, the Tribunal did not even take note of the challenge made to this order dated 12.7.2018 and dismissed the Securitisation Application only on the strength of the challenge made to the earlier Possession Notice and the Rule 8 (6) Notice. The Tribunal therefore erred in ignoring the challenge made to an order which was passed just a fortnight prior to the filing of the Securitisation Application.

5 The order dated 23.01.2019 passed by the Tribunal in S.A.No.158 of 2018 is accordingly set aside and the S.A. is remitted to the file of the Tribunal for consideration afresh on the issue of limitation as regards the challenge made to the order dated 12.7.2018 passed by the learned Chief Metropolitan Magistrate, Cyberabad, under Section 14 of the SARFAESI Act, 2002.

6 The Writ Petition is accordingly allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J.

P. KESHAVA RAO, J.

Date: 29th July, 2019.
Kvsn