

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.3366 OF 2019

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

The petitioners, who claim to be third parties to the loan transaction between the 2nd respondent bank and others, have come up with the above Writ Petition challenging an auction sale notice, dated 29.01.2019.

2. Heard Mr. H. Venugopal, learned counsel for the petitioners.

3. The claim of the petitioners is that they purchased certain properties way back in the year 1999 and entered into a Memorandum of Understanding (MOU) in the year 2002 with the borrowers, for leaving certain common areas in the property that was conjoined together and that these common areas have now been mortgaged by the borrowers without having any title to the same. It is those properties that are sought to be brought to sale. Hence, the writ petition.

4. The petitioners rely upon the sale deeds of the year 1999 and the MOU, dated 15.04.2002. Therefore, primarily the objections of the petitioners are actually on facts. What is raised in the writ petition is not a pure and simple question of law. Therefore, the petitioners should first approach the Debts Recovery Tribunal (DRT) for an adjudication of these questions of facts before they could come here.

5. Hence, leaving it open to the petitioners to approach the Tribunal, this Writ Petition is dismissed. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 20, 2019
Mgr

