

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.3684 of 2019

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

- 1) Challenging an e-auction notice issued by the respondent-bank under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act") and the Security Interest (Enforcement) Rules, 2002, the borrower has come up with the above writ petition.
- 2) Heard Mr.P.Nageswara Rao, learned counsel for the petitioner. Mr.M.Skanth Reddy, learned counsel takes notice for the respondent-bank.
- 3) The main contention of the petitioner is that without serving a demand notice under Section 13(2) and possession notice under Section 13 (4) of the Securitization Act, the bank straight away issued an auction notice, thereby violating the series of steps contemplated by Section 13 (4) of the Securitization Act. Reliance is placed upon a possession notice, in the last three lines of the first part of which it is stated that the demand notices returned un-delivered, forcing the bank to publish the same in two news papers. Therefore, the contention is that the auction cannot precede a service of demand notice.

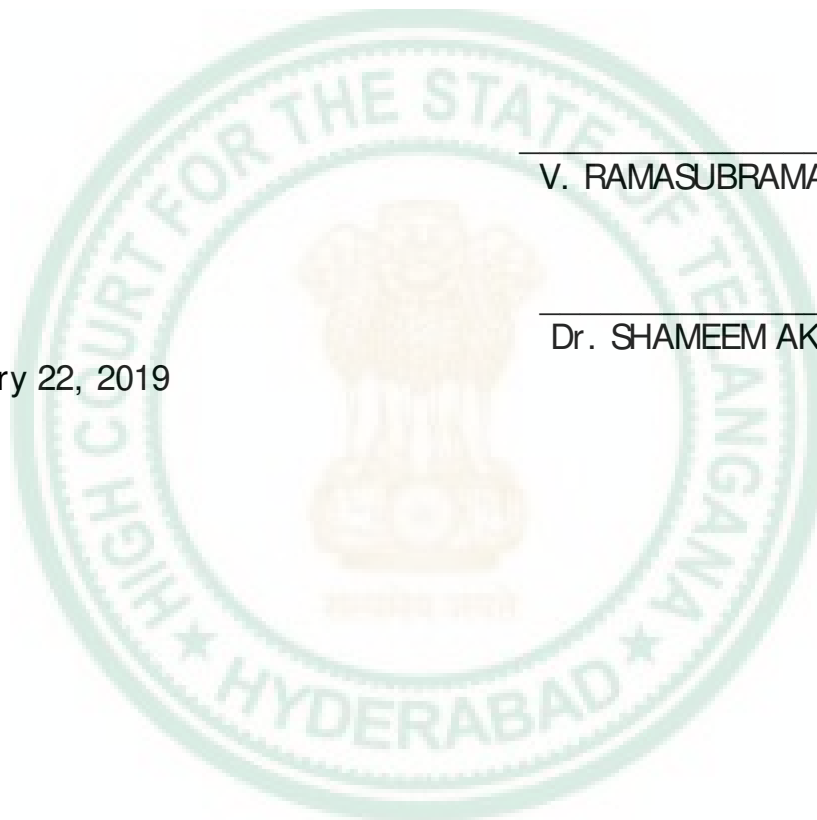
4) But the question whether the procedure prescribed by law was followed or not, is a question of fact. The petitioner ought to have gone before the Debts Recovery Tribunal to have these questions of fact thrashed it.

5) Therefore, leaving it open to the petitioner to go to the Debts Recovery tribunal, the writ petition is dismissed. As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 22, 2019
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HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE Dr. JUSTICE SHAMEEM AKTHER



WRIT PETITION No. 3684 of 2019

Date: 22.02.2019