

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.4402 OF 2019

Date: 06.03.2019

Between:

MM. Ashwini Kumar S/o.MSN Murthy,
R/o.Indira Nagar, Vijaynagar Colony,
Hyderabad and others.

... Petitioners

Vs.

State Bank of India, Stressed Assets Management Branch,
Secunderabad, Rep. by its Authorized Officer and others.

.. Respondents

For Petitioners : M/s. Amancharla V. Gopala Rao

For Respondents : Sri Ambadipudi Satyanarayana and
Sri A. Satyanarayana

Gist :

Head Note :

Cases Referred : Nil

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
WRIT PETITION No.4402 OF 2019

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

Aggrieved by a final order passed by the Debts Recovery Tribunal in an appeal filed under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security on Interest Act (for short 'Securitisation Act), 2002, the guarantors had come up with the above writ petition.

2. Heard Mr. Amancharla V. Gopala Rao, learned counsel for the petitioner and Mr. Ambadipudi Satyanarayana, learned Standing Counsel for the Bank.

3. As against the measures initiated by the Bank under Section 13(4) of the Securitisation Act including the auction sale notice dated 06.08.2016, the guarantors filed an appeal in S.A. No.,400 of 2016. The same got transferred to the file of Debts Recovery Tribunal – II and renumbered as S.A. No.1304 of 2017.

4. A lot of contentions were raised by the petitioners on the validity of the measures taken. The Tribunal rejected the contentions and dismissed the appeal by the order impugned in this writ petition.

5. As against the order impugned in the writ petition, the petitioners have an effective alternative remedy of appeal to the Debts Recovery Appellate Tribunal (DRAT) under Section 18 of the Securitisation Act. We see no reason to permit the petitioners to

bypass the alternative remedy of appeal. Though it is contended by Mr. Gopala Rao, learned counsel for the petitioners, that none of the points raised by the petitioners were considered by the Tribunal and it is further contended that the auction purchasers have not complied with the provisions of Rule-9 (3) of the Security Interest (Enforcement) Rules, 2002, we do not know why these contentions cannot be raised before the Debts Recovery Appellate Tribunal. The Appellate Tribunal is a Tribunal which can deal even with disputed questions of fact as well as law. Such a facility is not available for the petitioners before this Court in a writ petition under Article 226 of the Constitution of India.

6. Therefore, the writ petition is dismissed leaving it open to the petitioners to approach the Debts Recovery Appellate Tribunal. If there is a small delay in the petitioners approaching the DRAT, the DRAT may take a liberal view and condone the same and entertain the appeal, provided the petitioners approach the DRAT within a period of fifteen (15) days from the date of receipt of a copy of this order.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 06, 2019

Note:

Registry is directed to return the original impugned order to the petitioners.

B/O.KTL

