

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 4500 of 2019

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

1) The petitioner has come up with the above Writ Petition challenging a pre-sale notice issued under Rule 8 (5) and (6) of the Security Interest (Enforcement) Rules, 2002 (for short "the Rules").

2) Heard Mr. Deepak Bhattacharjee, learned Senior Counsel appearing for the petitioner. Mr. P. Hari Prasad, learned counsel takes notice for the respondents.

3) The main contention of the learned Senior Counsel appearing for the petitioner is that there was no compliance of Rule 4 (2) (A) as well as sub-Rule (6) of Rule 8 and (7) of the aforesaid Rules.

4) It appears that the demand notice under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act") was issued on 30.05.2018. It appears that the petitioner did not make payment and did not respond to the same. Therefore a possession notice was issued on 12.10.2018. The measures sought to be taken under Section 13 (4) of the Securitization Act were never challenged by the petitioner before the Debts Recovery Tribunal. Therefore the bank proceeded to issue the impugned notice.

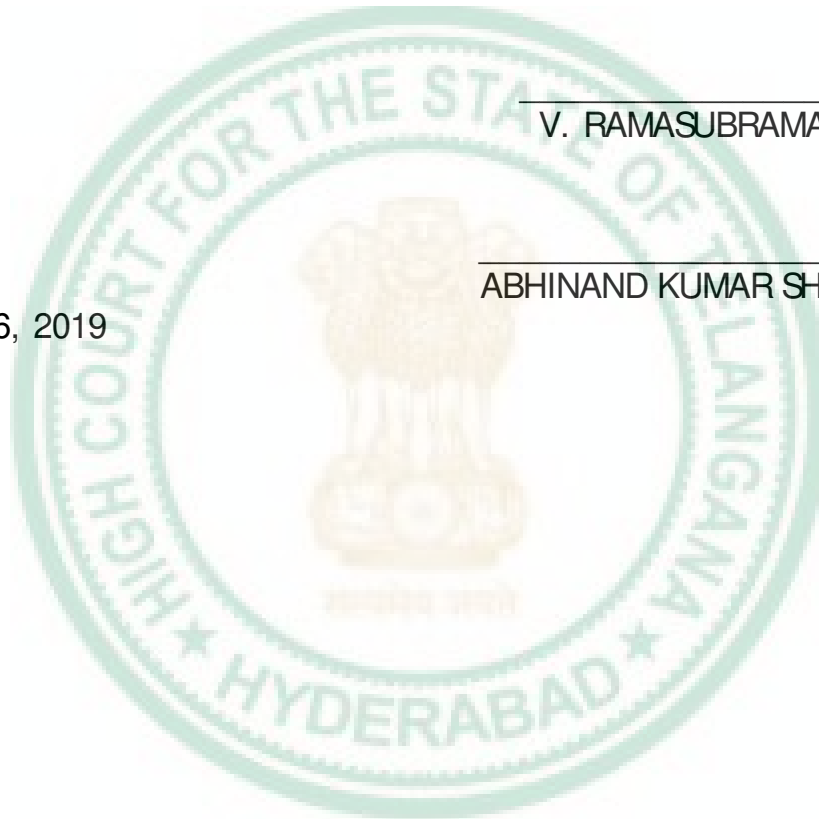
5) The petitioner has an affective alternative remedy under Section 17 of the Securitization Act. We see no reason as to why the same should be allowed to be bye-passed. Therefore, leaving it open to the petitioner to approach the Debts Recovery Tribunal, the Writ Petition is dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 6, 2019
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Date: 06.03.2019

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