HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4822 OF 2019

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

Challenging a communication by which the objections raised by the petitioner to the demand notice under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Act, 2002'), were rejected, the borrower has come up with the above writ petition.

2. Heard Mr. Ch. Samson Babu, learned counsel for the petitioner. Mr. M. Srikanth Reddy, learned counsel, takes notice for respondent Nos.2 and 3. 1st respondent is an unnecessary party. Therefore, it is struck off from the array of the parties.

3. What is challenged herein is an order rejecting the objections raised by the petitioner to the demand notice under Section 13 (2) of the Act, 2002. In other words, the impugned communication is one purportedly passed under Section 13 (3A) of the Act, 2002. An order under Section 13 (3A) is not justifiable. Therefore, we cannot test the correctness of the order.

4. In any case, it is only when measures under Section 13 (4) of the Act, 2002 are taken that the person aggrieved is entitled to come up. Section 17 of the Act, 2002 provides an effective alternative remedy as against the measures taken under Section 13 (4) of the Act, 2002.

5. More over, the main grievance of the petitioner is that in their letter, they have agreed to discharge the entire liabilities within four (04) months and that the same has not been properly appreciated. But, the fact is that the letter requesting to grant four months time was signed on 28.12.2018. It means the petitioner was prepared to discharge the loan before 28.04.2019. We are now on 11.03.2019. Therefore, the petitioner still has lot of chances before the property is eventually brought to sale and he need not feel aggrieved by the impugned order, since the procedure prescribed by law may not enable the bank to defeat the rights of the petitioner before the expiry of the time sought by the petitioner.

6. Therefore, we find no merits in the writ petition and hence it is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

March 11, 2019
Mgr