

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE P.KESHAHA RAO

WRIT PETITION No. 5567 of 2019

ORDER: (per V. Ramasubramanian, J)

1) The petitioners who are respectively the wife and minor daughter of the borrower have come up with the above writ petition challenging a demand notice issued against the third respondent under Section 13 (2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act").

2) Heard Smt.G.Malathi, learned counsel for the petitioners. Mr.M.Srikanth Reddy, learned counsel takes notice for the respondents 1 and 2.

3) It appears that there are matrimonial disputes between the 1st petitioner and the 3rd respondent herein leading to proceedings initiated under the Protection of Women from Domestic Violence Act, 2005. The petitioners appear to have obtained residence orders against the 3rd respondent.

4) But the property in which the petitioners are residing, is a house of which the 3rd respondent seems to have taken the housing loan. Since the 3rd respondent committed default, the

bank has issued a demand notice under Section 13 (2) of the Securitization Act.

5) Contending that their rights are affected by the action of the bank, the estranged wife and daughter of the borrower have come up with the above writ petition.

6) We have repeatedly been holding that no cause of action arises as against a demand notice under Section 13 (2) of the Securitization Act. A demand notice is nothing but a call given to the borrower to repay money. If such a demand is *set aside* at the instance of any one the bank can never recover any money.

7) As against the demand notice, the borrower or any other person is obliged to submit their objections on which the Authorised Officer is obliged to pass orders under Section 13 (3A) of the Securitization Act. It is only thereafter the measures under Section 13 (4) of the Securitization Act will be taken.

8) It is only at the stage when the measures are taken under Section 13 (4) of the Securitization Act that a cause of action will arise for anyone to challenge the action of the bank. Till that stage is reached, even the borrower does not have a right to come to Court.

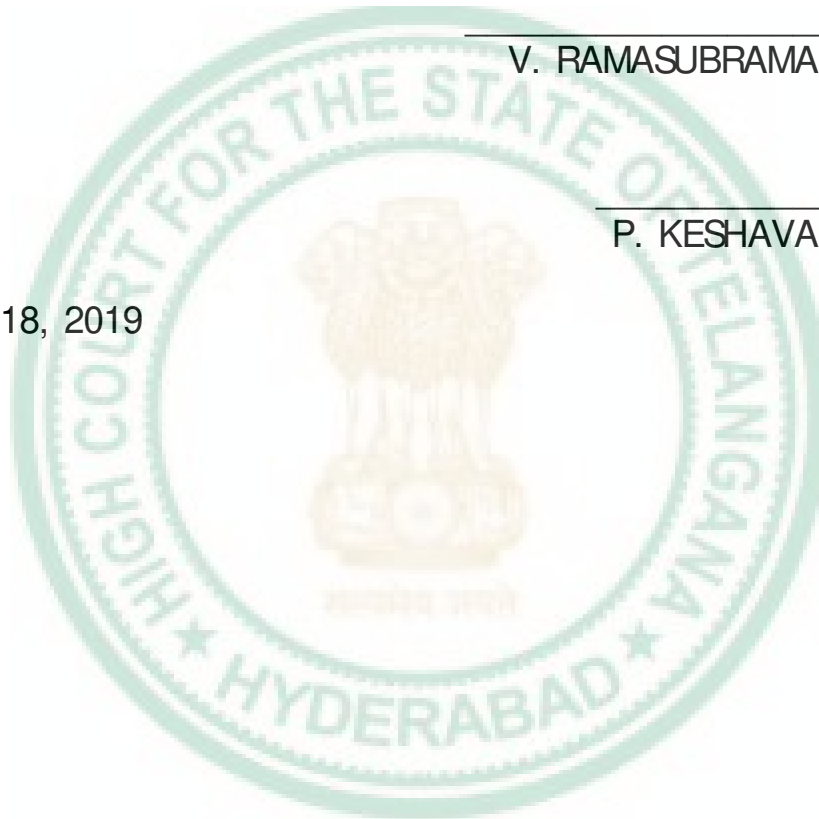
9) Therefore, leaving it open to the petitioners to raise all disputes if and when a possession notice is issued under Section 13 (4) of the Securitization Act, this Writ Petition is dismissed as premature.

As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

March 18, 2019
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HON' BLE SRI JUSTICE P.KESHAHA RAO



WRIT PETITION No. 5567 of 2019

Dated 18.03.2019

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