

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6428 of 2019

ORDER::

This writ petition is filed seeking to issue a writ more particularly one in the nature of writ of mandamus to declare the proposed action of the respondents to sell the mortgaged house and the rice mill as being illegal, arbitrary and against the right to hold the property and for issuance of appropriate consequential directions, in the interest justice.

02. Facts stated are:-the petitioner has availed loan on 13-06-2007 on cash credit facility and utilized till 26-02-2013 within the permissible limits. Due to vagaries in business, the petitioner sustained loses as there was irregular power supply and could not run the rice mill. That as the loan repayment became irregular, the respondent-bank initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

03. That while the matter stood thus, the respondent-SBI bank evolved a One Time Settlement Scheme (OTS) in the year 2018 and under the said scheme all non-performing assets

(NPAs) and AUCAs with outstanding of above Rs.20 lacs and upto Rs.50 crores as on 30-03-2018 were given opportunity to pay the amounts as per the terms and conditions mentioned in the OTS scheme. That the outstanding amount as on 31-03-2018 payable by the petitioner is stated to be Rs.1,62,98,464/- inclusive of interest and under the OTS scheme, the amount was settled to Rs.88,78,654/- after deducting the amounts already paid. That the petitioner was informed through letter dated 27-09-2018 that his loan account is admitted to the OTS scheme and was required to pay the amounts on or before 27-03-2019. That the petitioner could pay only 15% of the amount on 25-10-2018 and remaining amounts, he could not mobilise in liquid cash due to assembly elections in the Telangana State followed by Parliamentary elections and there was also an embargo on transactions beyond Rs.10 lacs during the election period.

04. The grievance of the petitioner is that now he is willing and ready to pay the amounts due and payable as assessed under the OTS scheme and seeks to extent the time, but the respondent-bank refused the same. Hence, this writ petition.

05. Learned counsel for the petitioner strenuously contended that in view of the peculiar situation in which the petitioner was placed, he could not pay the balance amounts within the in time fixed in the OTS scheme and in light of the compliance of the order of this Court, pursuant to which the petitioner deposited another sum of Rs.10 lacs, the petitioner be permitted to pay the balance amount under the OTS scheme.

06. On the other hand, learned standing counsel for the respondent-bank submits that the OTS scheme evolved is non-discretionary and non-discriminatory and to avail the benefit, the beneficiaries have to comply the terms thereof. In support of his contention, learned counsel relied on the decision of the Hon'ble Supreme Court in **UNION BANK OF INDIA vs. PANCHANAN SUBUDHI** (Civil Appeal No.1355 of 2009).

07. Clause 4 of the OTS scheme states that the borrower has to deposit 5% of the OTS amount and the balance amount on the further terms thereof. One of the silent feature of the scheme is, it is non-discretionary and non-discriminatory. When once a scheme is evolved and certain benefits are attached to it, to avail the same, the beneficiaries have to stick

to the terms thereof. In **PANCHANAN SUBUDHI's** case relied on by the learned standing counsel for the respondent-bank it was ruled that when once the beneficiary failed to abide by the terms of the one time settlement, there was no justification for interference.

08. In view of the law laid down by the Supreme Court in the decision cited, this Court is not inclined to grant the relief sought for by the petitioner. The writ petition fails and it is accordingly dismissed. Consequently, miscellaneous petitions, if any, pending are also dismissed. There shall no order as to costs.

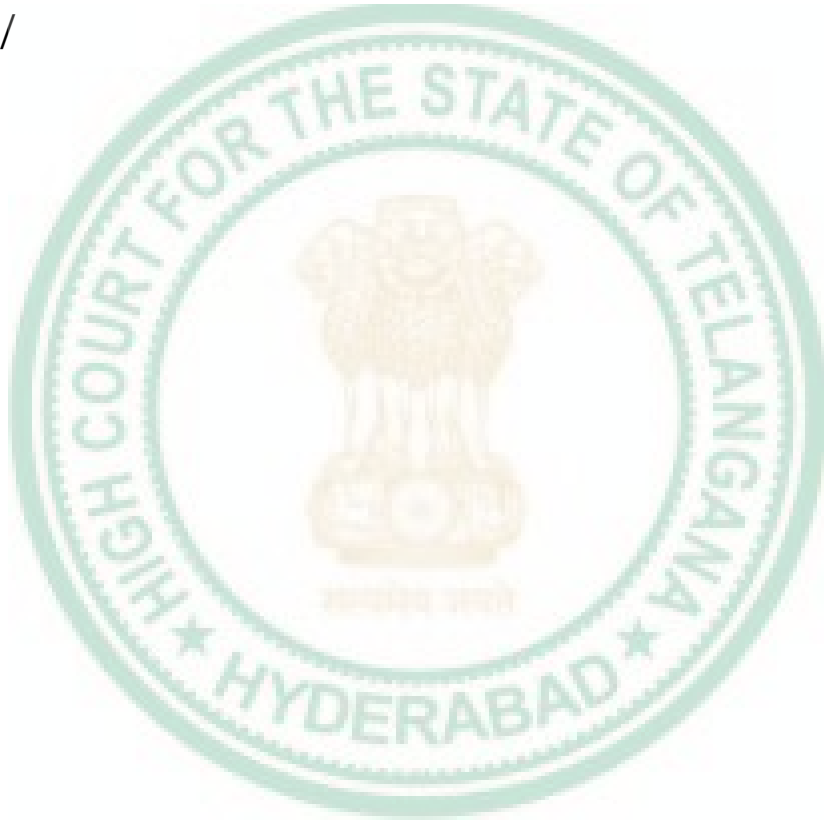
A.RAJASHEKER REDDY, J

Dated: 17-07-2019
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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6428 of 2019

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Dated: 16-07-2019

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