

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No. 8927 of 2019

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

1) Challenging a demand notice issued under Section 13 (2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act"), on the ground that their properties are shown as secured assets wrongly, a third party has come up with the above Writ Petition.

2) Heard Mr.A.Sudarshan Reddy, learned counsel for the petitioner.

3) We have repeatedly been holding that a demand notice under Section 13 (2) of the Securitization Act does not give raise to a cause of action for any party to come to Court. The Securitization Act stipulates that in response to a demand notice under Section 13 (2) of the Securitization Act, 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 can be taken.

4) 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.

5) Let us take a hypothetical case where a demand notice issued, however wrong it is, is set aside at the instance of a third party, then the bank's right to demand the dues, itself will go. It is not open to this Court to segregate the demand notice into two portions, one relating to demand of money and another relating to security interest and to hold whether one portion is right or wrong.

6) In this case, the bank has given a reply to the objections of the petitioner on 17.08.2018. Though the bank has chosen to reject the claim of the petitioner, the bank has not proceeded further for the past eight months. Therefore, the Writ Petition is premature. Hence, leaving it open to the petitioner to go to the appropriate forum or Court, after initiation of measures under Section 13 (4) of the Securitization Act, the Writ Petition is dismissed.

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

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

April 25, 2019
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HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE P. KESHA RAO



WRIT PETITION No. 8927 of 2019

Dated : 25.04.2019

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