

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

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THE HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.9582 of 2019

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

Seeking redelivery of possession of a house property, the petitioner, who obtained education loan for the education of her daughter, has come up with the above writ petition.

2. Heard Mr. V.V. Ramana, learned counsel for the petitioner and Mr. Meher Prasad, learned counsel appearing for the respondent – bank.

3. It is a very pathetic case where petitioner borrowed money for her daughter's education and she was also prompt in repayment. After her daughter completed education, the petitioner gave her in marriage to a boy living in USA. But within a few months the marriage broke. Therefore, there was default in repayment.

4. The petitioner filed an appeal in SA.No.489 of 2018 on the file of the Debts Recovery Tribunal under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). An interim stay of auction was granted by the tribunal on condition that the petitioner deposited 30% of the dues. The petitioner has now deposited 30% of the dues. But, in the mean time, she has been dispossessed from the property. Her application for re-possession is not taken up by the tribunal. Therefore, she is before us.

5. Admittedly, the amount due is around Rs.17 lakhs. The petitioner has paid around Rs.6 lakhs representing 30% of the dues. Therefore, in all fairness, the petitioner should be permitted to live in the house property. Even if the bank is allowed to keep possession of the property, the bank may have to employ security guards round the clock in three shifts incurring more expenditure.

Therefore, the writ petition is allowed directing the bank to hand over the possession of the property to the petitioner. However, the tribunal may dispose of the appeal within a period of four (4) months from the date of receipt of a copy of this order. Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

April 30, 2019

Note: Furnish C.C. of the order by 01.05.2019.

(B/o) DSK