

THE HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND**

THE HON'BLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.11053 OF 2018

Date: 07.06.2019

Between:

Nageswara Srinivas Palakodeti,
S/o.Palakodeti Subba Rao, Age: about 44 years,
R/o.Bagh Amberpet, Hyderabad and others.

... Petitioners

v.

The Union of India, Rep. by its Secretary,
Ministry of Finance, New Delhi and others.

... Respondents

For Petitioners : Mr. Kaatrapati Satyanarayana

For Respondents : Mr. K. Lakshman,
Asst. Solicitor General

Gist :

Head Note :

Cases Referred :

C/15

**HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HONOURABLE SRI JUSTICE P. KESHA VA RAO**

WRIT PETITION No.11053 OF 2019

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

The petitioners have come up with the above writ petition challenging a demand notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Securitization Act').

2. Heard Mr. Kaatrapati Satyanarayana, learned counsel for the petitioners.

3. Claiming that the 1st petitioner herein secured a loan from the 4th respondent and mortgaged the property in question as security for the due repayment of the loan and also claiming that the 4th respondent assigned the debt in their favour, the 2nd respondent herein which is an Asset Reconstruction Company issued a demand notice under Section 13 (2) of the Securitization Act. It appears that the petitioners herein also availed a credit facility from the 3rd respondent herein. In terms of the loan agreement, the 3rd respondent initiated arbitration and secured an award dated 16.04.2012. According to the petitioners, an Execution Petition was filed by the 3rd respondent in E.P. No.111 of 2015, but the same was returned for want of jurisdiction.

4. Therefore, contending that when steps are taken for execution of the Arbitration Award, it is not proper for the 2nd

respondent to invoke the provisions of the Securitization Act, the petitioners have come up with the above writ petition.

5. But, we have been consistently holding that a mere demand notice under Section 13(2) of the Securitization Act does not give rise to a cause of action. The petitioners should give a reply to the demand notice pointing out as to how there is no liability at all. If the objections of the petitioners to the demand notice are overruled by way of an order under Section 13(3A) of the Securitization Act and measures are taken under Section 13(4) of the Securitization Act, it is only at that stage that the petitioners will have a cause of action to come to Court. A mere demand notice, however, absurd and however wrong it is, cannot be set aside as the 2nd respondent cannot take measures until they follow the procedure prescribed by law and the petitioners cannot have a cause of action until the measures are taken.

6. Therefore, leaving it open to the petitioners to raise objections to the impugned demand notice and leaving it open to them to take recourse to the appropriate remedies, if and when the 2nd respondent takes measures under Section 13(4) of the Securitization Act, this writ petition is dismissed.

The miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

June 07, 2019
KTL