

THE HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITIOIN No.11465 of 2019

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

The petitioners have come up with the above writ petition challenging a final order passed by the Debts Recovery Tribunal (DRT) in an appeal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Securitization Act').

2. Heard Mr. R. Raghunandan Rao, learned Senior Counsel for the petitioners. Mr. M. Srikanth Reddy, learned Standing Counsel takes notice for the respondent bank.

3. The main ground on which the petitioners opposed the initiation of measures under Section 13 (4) of the Securitization Act is that the bills of exchange that the petitioners entrusted to the respondents for negotiation with the German bank were not negotiated on time by the respondent bank and that therefore, the money recoverable from the foreign buyer could be recovered only in part after initiation of proceedings in a Court in Germany at the cost of the petitioners. Therefore, the petitioners have filed a counter claim in an original application filed by the respondent bank before the DRT. The contention of the petitioners is that when the bank was at fault for not recovering the money from the foreign buyer, which could have wiped off the entire liability and when the petitioners have a good case for

succeeding in the counter claim, the respondent bank cannot initiate proceedings under the Securitization Act.

4. But, the moment it is accepted that the claim of the petitioners against the bank is in the form of damages, the question whether the hands of the respondent bank will be completely tied in getting a decree in their own claim, looms large. Therefore, in cases of this nature, it is better for the petitioners to go before the Debts Recovery Appellate Tribunal (DRAT) as against the order of the DRT.

5. It is true that the DRT has recorded a finding that they cannot go into these questions. But, today the question that the petitioners have invited the attention of DRT is as to whether the bank can proceed further with the sale of the properties, when there is obviously a mistake on the part of the bank. This is a question which the DRT and DRAT can certainly consider.

6. Therefore, leaving it open to the petitioners to approach the DRAT as against the impugned order, the writ petition is dismissed. In case, there is any delay for the petitioners in approaching the DRAT, the same may be condoned by the DRAT and the appeal to entertain.

7. As a sequel thereto, miscellaneous petitions, if any pending, shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

June 18, 2019

Note:
Registry to return the original impugned
Order to the petitioners to enable them to
file a statutory appeal.
B/O.KTL