

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.11639 OF 2019

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

The Guarantor has come up with the above writ petition challenging the sale of his property under a Sale Certificate, dated 18.04.2012, in terms of the Provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'Act, 2002').

2. Heard Mr. M. Damodar Reddy, learned counsel for the petitioner. Mrs. V. Dyumani, learned counsel, takes notice for the respondent bank.

3. What is challenged in the above writ petition is a sale certificate, dated 18.04.2012, issued under the Act, 2002. According to the petitioner, he came to know about the issue of the sale certificate only in April, 2019 when he was attending to a case filed by the bank in O.A. No.424 of 2011 before the Debts Recovery Tribunal (DRT).

4. First of all, the date of knowledge of the petitioner about the sale of the property, is a question of fact. Unless this question of fact is established, we will not know whether there is any delay or laches on the part of the petitioner. Therefore, this question of fact has to be

established by the petitioner only by filing an appropriate appeal under Section 17 of the Act, 2002 before the DRT.

5. According to the petitioner, no notice was ever served before the sale. If that is so, the same is also a question of fact to be adjudicated first before the DRT.

6. Therefore, leaving it open to the petitioner to go before the Tribunal, this writ petition is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA VA RAO, J

June 13, 2019
Mgr