

HONOURABLE SRI JUSTICE SANJAY KUMAR
AND
HONOURABLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.13925 of 2019

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner in this case reads as under:-

“... to issue a order a writ, order or direction more in the nature of Writ of Mandamus declaring the action of the respondents in not passing any orders on the petitioner's representation dated 31.5.2019 for extending the time for repayment of the amount as illegal, arbitrary and violative of all principles of natural justice and further direct the respondents to extend the time for a period of six months' time to repay the due amount and pass appropriate orders and other orders as may deem fit and proper in the circumstances of the case.”

Perusal of the record reflects that the respondent Syndicate Bank issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, only on 09.5.2019 quantifying the dues payable by the petitioner at Rs.25,01,362.61 paise and calling upon it to clear the said dues within 60 days. The petitioner submitted its response thereto, *vide* representation dated 31.5.2019, seeking six more months' time to clear the outstanding dues. The present Writ Petition is filed assailing the action of the respondent bank in not passing orders on the said representation.

Section 13(3A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, provides that if, upon receipt of the demand notice under Section 13 (2), the borrower makes a representation, the secured creditor shall consider the same and in the event the said

representation is found to be unacceptable, the secured creditor is required to communicate, within 15 days of receipt of such representation, the reasons for non-acceptance of the representation to the borrower.

In the light of this statutory mandate and the settled legal position that without abiding by the procedure prescribed under the aforesaid provision, the secured creditor cannot proceed further, we find no cause of action for the petitioner to approach this Court. In the event the secured creditor fails to abide by the statutory mandate, it would have to face the consequences. We need say no more.

The Writ Petition is accordingly dismissed.

Pending Miscellaneous Petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE P.KESHAVA RAO

09th July, 2019
dr