

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION NO.14087 OF 2019

ORDER: (per SK,J)

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

'For the reasons stated in the accompanying affidavit, it is, therefore, prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, order or direction, one in the nature of Mandamus or such other appropriate writ, declaring the mortgage in favour of the bank in respect of the schedule property and subsequent proceedings and orders dt.22.5.2019 in S.A.No.380 of 2017 passed by the 6th respondent, as illegal and arbitrary as right to property is fundamental right as per the provisions of article 300A of the Constitution of India and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

Significantly, the order dated 22.05.2019 passed in S.A.No.380 of 2017 was that of the Debts Recovery Tribunal at Visakhapatnam. It is an admitted fact that the property which was the subject-matter of the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is also situated in the present State of Andhra Pradesh.

In that view of the matter, the order dated 22.05.2019 passed by the Tribunal at Visakhapatnam in S.A.No.380 of 2017 cannot be subjected to challenge before this Court for want of territorial jurisdiction.

As regards the other limb of the prayer pertaining to the status of the mortgage allegedly created in favour of the bank by the petitioner's brother-in-law at Hyderabad on the strength of the Special Power of Attorney executed by her, we are of the opinion that such relief cannot be sought before this Court by way of a writ petition. Several disputed

questions of fact would arise in the context thereof and the petitioner would necessarily have to invoke the appropriate civil remedy available to her in law before the proper forum. We therefore find no grounds whatsoever to entertain this writ petition.

The writ petition is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

P.KESHAVA RAO,J

Date:10.07.2019

GJ

