HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAVA RAO

<u>WRIT PETITION No. 16871 of 2018</u>

<u>ORDER</u>: *(per V. Ramasubramanian, J)*

1) The petitioners have come up with the above writ petition challenging an offer for one time settlement made by the Asset Reconstruction Company, on the ground that the terms and conditions stipulated therein are in violation of the Reserve Bank of India guidelines.

2) Heard Mr.Arun Kumar Satyavolu, learned counsel for the petitioners.

3) It appears that the petitioners were granted credit facilities, way back in the year 2005 and the facilities were enhanced in the year 2008. But the account of the petitioners became a non-performing asset in the year 2013, as a result of which a demand notice under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Securitization Act") was issued on 25.12.2013. A possession notice followed on 01.03.2014.

4) Thereafter, the bank assigned the debts in favour of the second respondent herein, by a registered document dated 30.06.2015. Thereafter, the petitioners seems to have approached the second respondent for a one time settlement. Eventually the second

respondent issued a letter dated 06.03.2018, accepting the offer for a one time settlement. The letter dated 06.03.2018 issued by the second respondent, accepting the one time settlement reads as follows:

> "This has reference to your letter dated 21.01.2018 and further your personal visit to our Hyderabad and Mumbai office regarding payment of Rs.3.80 Crore on or before 28.03.2018 in full and final settlement of dues of captioned accounts.
>
> We acknowledge receipt of Rs.5 lacs out of said amount and in principle agreeable to your offer of Rs.3.80 crore payable on or before 28.03.2018.
>
> Please note that our this letter shall remain valid only upto 28.03.2018 and in case you fail to pay further Rs.3.75 crore on or before 28.03.2018, OTS stands cancelled and withdrawn.
>
> In case of non-payment of further Rs.3.75 crore by 28.03.2018, you shall be liable for entire contractual dues as claimed in OA and we shall continue all recovery measures."

5) It may be seen from the contents of the letter dated 06.03.2018 that the said letter is nothing but an acceptance of the proposal given by the petitioners to make payment of Rs.3.80 crores on or before 28.03.2018. After having given such an offer and after the second respondent accepted the said offer, the petitioners allowed things to drift away from them and thereafter came up with the above writ petition towards the end of April, 2018, challenging the aforesaid letter of acceptance on the ground that it is in violation of guidelines of R.B.I.

6) It should be pointed out at the outset that the one time settlement did not emanate first from the second respondent. The letter dated 06.03.2018 under challenge, was in response to an offer made by the petitioners by their letter dated 21.01.2018. Once an offer is made by the petitioners and it is accepted by Asset Re-construction Company we do not know how the acceptance of the offer can be challenged by way of a writ petition.

7) It appears that the second respondent has taken possession of the properties and could not successfully conduct auctions so far. Eventually, a fresh sale notice dated 10.01.2019 seems to have been issued. As we have pointed out above, the challenge to the acceptance of the one time settlement proposal made by the petitioners is wholly not maintainable. Even if the petitioners have any grievance about the other measures taken by the bank the petitioners should go only before the Debts Recovery Tribunal. Therefore, leaving it open to the petitioners to go before the Debts Recovery Tribunal, the writ petition is dismissed.

8) As a sequel, miscellaneous petitions, if any, pending in the Writ Petition stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

February 7, 2019
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