

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

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THE HON'BLE SRI JUSTICE P. KESHAVA RAO

WRIT PETITION No.19778 of 2018

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

Aggrieved by the rejection of an appeal filed by the petitioners under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') on the ground that the petitioners would not come within the definition of the expression 'aggrieved person', the petitioners have come up with the above writ petition.

2. Heard Mr. A. Venkatesh, learned counsel for the petitioners and Mr. P. Sri Harsha Reddy, learned counsel for respondent No.2 – Asset Reconstruction Company.

3. Apart from suspecting the bonafides of the petitioners due to the date of its formation and apart from suspecting as to how so many number of students could be accommodated in the property, which forms a secured asset, the Debts Recovery Tribunal also rejected the appeal under Section 17 of the Act without even numbering it, on the ground that the petitioners would not come within the purview of the expression 'aggrieved person'.

4. In AGARWAL TRACOM PRIVATE LIMITED v. PUNJAB NATIONAL BANK¹, the Supreme Court has interpreted the expression 'aggrieved person' under Section 17 of the Act to mean even third parties. Therefore, the dismissal of the appeal, at the threshold even without numbering it and taking up for hearing, cannot be permitted.

¹ (2018) 1 SCC 626

In view of the above, the writ petition is allowed, the impugned order is set aside and the matter remanded back to the tribunal. The tribunal shall decide all questions, after hearing all the parties afresh. The petitioners shall move an application for stay before the tribunal and seek protective orders. To enable them to do so, the interim protection, already granted by this Court by virtue of an interim order, will continue to be in force for a period of six (6) weeks. Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

April 29, 2019
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