

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.38264 OF 2018

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

Challenging the order passed by the Chief Metropolitan Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'), a third party claiming independent right and title to the property in question, has come up with the above writ petition.

2. Heard Mr. P. Rajesh Babu, learned counsel for the petitioner, and Mr. N. Manohar Reddy, learned counsel for the 1st respondent - bank.

3. The main ground on which the petitioner challenges the order of the Chief Metropolitan Magistrate is that she purchased one portion of the property from a larger extent, way back in 1993, and that despite confining their claim only to the remaining portion of the property in the body of their petition under Section 14 of the SARFAESI Act, the bank obtained an order for the whole of the property contrary to what is mentioned in the body of the petition. In addition, it is contended that no affidavit as required by the amended Section 14 of the SARFAESI Act was filed along with the petition.

4. But, in this case, the 3rd respondent seems to have already approached the Tribunal in S.A. No.216 of 2018 challenging the very same order of the Chief Metropolitan Magistrate dated 18.09.2018. The petitioner herein has also been arrayed as 3rd respondent therein.

5. Though the petitioner claims that her right to independently agitate her claim cannot be thwarted by a petition filed by the 3rd respondent, we are of the view that parallel adjudication cannot go on, one before this Court and one before the Debts Recovery Tribunal, even at the instance of two (2) parties setting up independent claims. In fact, we have protected the interest of the parties by a final order passed on 12.03.2019 in a writ petition W.P. No.1491 of 2019 filed by the 3rd respondent herein. Therefore, the protection extends even to the petitioner. While so, we see no reason as to why we should indulge in a parallel adjudication.

6. Therefore, the Writ Petition is dismissed. However, the Tribunal shall consider the objections of the petitioner herein also while considering the objections of the 3rd respondent herein in S.A. No.216 of 2018. While disposing of S.A. No.216 of 2018, the Tribunal shall take note of the objections of the petitioner also to the impugned proceedings, so that one Court decides the rights of all the parties in the first instance. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any pending, in the writ petition stand closed.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

April 22, 2019.

PV

