

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
&
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.42421 of 2018

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

Challenging the order passed by the Chief Metropolitan Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'), third parties, who claim to be in possession of the secured asset, have come up with the above writ petition.

2. Heard Mr. V. Srinivas, learned counsel for the petitioners and Mr. K. Sai Ram Murthy, learned standing counsel for the first respondent bank.

3. The petitioners filed an appeal in SA.No.1187 of 2017 on the file of the DRT, challenging the measures taken under Section 13(4) of the Act. In the said appeal, the tribunal passed a conditional order of stay on 23.03.2017. The conditional order comprised of two parts. The petitioners complied with the first part of the condition. Insofar as the second part is concerned, the petitioners sought extension of time. But the tribunal rejected the application forcing the petitioners to move the Debts Recovery Appellate Tribunal.

4. The Debts Recovery Appellate Tribunal, by order dated 11.05.2017, allowed the appeal and granted extension of time. The petitioners complied with the second part of the condition thereafter.

5. Thus, the condition imposed by the DRT in its original order, as modified by the order of the appellate tribunal stands complied with. But, at this stage, the bank has moved the Chief Metropolitan Magistrate under Section 14 of the Act forcing the petitioners to come up with the above writ petition.

6. In the light of the fact that the petitioners have now complied with both the conditions imposed by DRT, as modified by DRAT, the petitioners are entitled to protection till the disposal of the appeal by the tribunal. They cannot be dispossessed during the pendency of the appeal.

7. Therefore, the writ petition is disposed of directing the first respondent bank not to take possession of the properties of the petitioners and not to proceed further till the disposal of the appeal SA.No.1187 of 2017. The tribunal shall endeavour to dispose of the appeal within a period of three (3) months.

Consequently, pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J

Dr. SHAMEEM AKTHER, J

February 19, 2019
DSK