

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NO: 35265 OF 2022

Between:

B.N. Ramachander, S/o: B.N. Narasimha, aged about 67 years, Occ. Retd.
Government Servant R/o H.No.18-1-5, Plot no. 6, M.E.S. Colony, Alwal,
Trimulgherry Post, Secunderabad-015

...PETITIONER

AND

1. M/s Indian Bank, Barkatpura Branch, Hyderabad Rep by its Authorized Officer.
2. The Debt Recovery Appellate Tribunal, Kolkata Rep by its Registrar Old Post office Stree, 7th floor, Kolkata-700 001.
3. The Debt Recovery Tribunal, Rep by its Registrar, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of Certiorari calling for the records relation to Appeal No. 248/2013/16-22 dated 21-06-2022 passed by the 2nd respondent and set aside the same as unjust and without any basis and contrary to Law including the order dated 20-11-2009 passed in S.A.No.164/2008 by the 3rd respondent and consequently direct the 1st respondent to re-deliver the property of the petitioner to the petitioner duly declaring the proceedings under SARFAESI Act and null and void and also direct the 1st respondent to pay compensation to the petitioner to a tune of Rs. 50.00 lakhs for the fraud committed by the 1st respondent from the date of taking possession of the property, in the interest of justice.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Suspend the Appeal No. 248/2013/16-22 dated 21-06-2022 passed by the 2nd respondent in the interest of justice pending disposal of the above writ petition.

Counsel for the Petitioner: SRI D. RAMAKRISHNA

Counsel for the Respondents: ----

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

Writ Petition No.35265 of 2022

ORDER: (Per the Hon'ble the Chief Justice Alok Aradhe)

Mr. D.Ramakrishna, learned counsel for the petitioner.

2. In this writ petition, the petitioner has assailed the validity of the order dated 21.06.2022, passed by the Debts Recovery Appellate Tribunal, Kolkata- respondent No.2 (for short 'the DRAT') in Appeal No.248 of 2013/60-22, by which the appeal preferred by the petitioner has been dismissed and the order dated 20.11.2009, passed by the Debts Recovery Tribunal, Hyderabad (for short 'the DRT'), in S.A.No.164 of 2008 has been upheld.

3. Facts giving rise to filing of the writ petition briefly stated are that the petitioner had taken loan of Rs.1.5 lakhs from the Department *viz.*, Institute of Preventive Medicine Narayanaguda, Hyderabad. In order to secure the loan, the petitioner had mortgaged the property with the Government.

The petitioner was also a guarantor to the loan granted in the year 1999 to one M/s. Sri Ranganatha Traders for a sum of Rs.2 lakhs. The loan limit was subsequently enhanced to Rs.5.75 lakhs. The petitioner did not pay the amount of loan. Therefore, the possession of the secured asset was taken over by the Bank on 14.06.2008.

4. The petitioner challenged the action of the Bank by filing a securitization application *viz.*, S.A.IR.No.80 of 2006 along with an application for condonation of delay *viz.* I.A.No.703 of 2006. The DRT, by an order dated 10.03.2008, dismissed the aforesaid securitisation application on the ground that the same is barred by limitation.

5. Thereafter, the petitioner filed another securitization application *viz.*, SA.No.164 of 2008. The Tribunal, by an order dated 20.11.2009, dismissed the same. The order passed by the DRT has been upheld in an appeal by an order

dated 21.06.2022 passed by the DRAT. Hence this writ petition.

6. Learned counsel for the petitioner submits that the petitioner had mortgaged he property with the State Government and therefore, the Bank has no authority to sell the property, which belongs to the petitioner.

7. We have considered the submissions made by learned counsel for the petitioner and have perused the record.

8. The DRT *inter alia* has taken note of the order passed in S.A.IR.No.80 of 2006 dated 10.03.2008 as well as Exhibits R1, R2 and R3 and has concluded that the petitioner had mortgaged the property in favour of the Bank. The aforesaid order passed by the DRT has been upheld by the DRAT. Thus, concurrent findings of fact were recorded by the DRT as well as DRAT and the same cannot be said to be illegal or perverse. The orders passed by either DRT or DRAT do not

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suffer from any infirmity warranting interference of this Court in the writ jurisdiction.

9. In the result, the writ petition fails and is, hereby, dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

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SD/- N. SRIHARI
ASSISTANT REGISTRAR
SECTION OFFICER

To,
1. One CC to Sri D. Ramakrishna, Advocate [OPUC]
2. Two CD Copies

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PA

HIGH COURT

DATED:22/10/2024



ORDER

WP.No.35265 of 2022

DISMISSING THE WRIT PETITION

WITHOUT COSTS

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2/10/24
4 copies