

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 28TH DAY OF JUNE, 2011

BEFORE

THE HON'BLE MR. JUSTICE A.S. BOPANNA

WRIT PETITION NO. 68453/2010 (GM-RES)

☆ Corrected vide Chamber
Order dt. 05/11/2012

BETWEEN:

Mouzam Ali Durugar
S/o. Late Mohammed Jamal Darugar
Aged about 35 years
Residing at No.2703
Village Drive, Avenel
New Jersey 07001
Rep. his Power of Attorney Holder
Sri. Meer Ameeruddin Ahmed
S/o. Meer Basheer Ahmed
Aged about 33 years
R/at. No.22, 1st Cross
R.Sonappa Block, J. C. Nagar
Bangalore 560 006

...PETITIONER

(By Smt. V. Vidya, Adv.)

AND:

1. State Bank of Mysore
Deshpande Nagar Branch
Shakambari Arcade
Opposite: Hebsur Hospital
3rd Main Road, Hubli
Rep. by its Manager

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2. Afzail Khan Bagewadi
S/o. Bagewadi
Major, R/at. House No.155/4
Kulkarni Hakkal Goods Shed
Hubli.

3. Authorised Officer
State Bank of Mysore
RASMECCC/SARC
Pancharathna, ward No.44
Opp: Sawai Gandharva Hall
New Cotton Market
Hubli 580 029.

...RESPONDENTS

(By Sri. S. K. Hegde, Adv. for R2 & R3
Sri. Ismail D. Jaigar, Adv. for R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED SALE CERTIFICATE FOUND AT ANNEXURE-F, ISSUED BY RESPONDENT NO.3 DATED 04.11.2010 AND ALLOW THIS WRIT PETITION WITH COST.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

1

ORDER

The petitioner is before this Court assailing the sales certificate impugned at Annexure-F to the petition. A perusal of the same would indicate that the same is pursuant to the proceedings initiated under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('the Act' for short). Against the said proceedings under Section 13 and 14 of the Act, an appeal is provided to the Debt Recoveries Tribunal under Section 17 of the Act.

2. No doubt, the learned counsel for the petitioner states that at the first instance, the petitioner had approached this Court since there was no Presiding Officer to the Tribunal. However, since at present there is sitting of the Tribunal on certain days of the week, in my view the petitioner should be relegated to the appellate remedy.



3. Accordingly, the petitioner is granted liberty to file an appeal as contemplated under Section 17 of the Act. Since the petitioner was before this Court and has now been relegated to the Appellate remedy, the respondent is directed not to precipitate the matter for a period of three weeks to enable the petitioner to file an appeal.

In terms of the above, the petition stands disposed of. No order as to costs.

**Sd/-
JUDGE**

gab/ct-bs