

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE SMT JUSTICE ANIS

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WRIT PETITION No.32860 OF 2014

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ORDER: (per Hon'ble Sri Justice K.C.Bhanu)

Challenging the order, dated 08.10.2014, in Securitisation Application No.1 of 2014 passed by the Debts Recovery Tribunal, Hyderabad (DRT), the present Writ Petition is filed.

2. Learned counsel for the petitioner contended that there is a statutory violation as the Authorized Officer of the Bank has not filed the affidavit as contemplated under Section 14 (1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act') and therefore, the impugned order needs interference by this Court.

2. Heard the learned counsel for the petitioner.

3. There cannot be any dispute that any order passed by the Debts Recovery Tribunal is appealable under Section 18 of the SARFAESI Act before Debts Recovery Appellate Tribunal (DRAT). According to the learned counsel for the petitioner, proviso to Section 14 (1) of the SARFAESI Act is mandatory. Proviso to Section 14 (1) of the SARFAESI Act provides that any application by the secured creditor shall be accompanied by an affidavit duly affirmed by the authorized officer of secured creditor by giving details as mentioned in the section.

4. Contention of the petitioner is that the Authorized Officer of the Bank has not filed the affidavit before DRT. Even that aspect of the case can be raised by filing appeal before DRAT under Section 18 of

the SARFAESI Act. It is not a case of violation of principles of natural justice or violation of fundamental rights or the authority, which passed the impugned order, lacks jurisdiction. Therefore, there are no grounds to interfere with the impugned order.

5. Accordingly, the Writ Petition is dismissed giving liberty to the petitioner to approach DRAT. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

OCTOBER 31, 2014
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THE HON'BLE SRI JUSTICE K.C.BHANU
AND
THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION No.32860 OF 2014

DATE: 31.10.2014

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