(2014) 09 KAR CK 0110

In the Karnataka High Court

Case No : Writ Petition No. 84202 and 84212/2013 (GM-RES)

Basamma APPELLANT

Vs

The Deputy Commissioner RESPONDENT

Date of Decision : 11-09-2014

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) — Section 14, 17

Citation : (2014) 09 KAR CK 0110

Hon'ble Judges : B.V. Nagarathna, J

Bench : Single Bench

Advocate : K. Vidyavathi, A.G.A. and C.V. Angadi, Advocate for the Respondent

Judgement

B.V. Nagarathna, J.—Petitioners being aggrieved by order dated 10.06.2013, passed by respondent No. 1-Deputy Commissioner under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as ''the Act'' for short) have preferred this writ petition.

2. Briefly stated the grievance of petitioners is that the action of respondent No. 2 - Bank was assailed before the Debts Recovery Tribunal (hereinafter referred to as ''D.R.T.'' for short) under Section 17 of the Act in I.R. No. 1128/2013. In that proceeding there was an order of status quo granted on 19.04.2013. That order was continued till the disposal of proceeding before the D.R.T. on 14.03.2014. But, in the interregnum on 10.06.2013 the respondent--Bank approached respondent No. 1--Deputy Commissioner under Section 14 of the Act and the impugned order was passed. It is contended that the impugned order is in violation of order of status quo granted by D.R.T. Hence, it is assailed in this writ petition by contending that in view of Sub-section (3) of Section 14 of the Act, petitioners cannot assail impugned order of Deputy Commissioner in any Court or before any authority.

3. I have heard learned counsel for parties and perused the material on record, it

is noted that on 19.04.2013 the D.R.T. passed the following interim order--

"Both the parties are directed to main status quo as on the date of filing of the present petition with respect to physical possession of the schedule property till the next date of hearing or till the appearance of the Respondent Bank whichever is earlier, subject to the condition that the Applicants shall deposit Rs. 10.00 lac to the loan account in question with the Respondent Bank within fifteen days from today."

4. Admittedly, that order was continued till 14.03.2014. Therefore, during the pendency of an order of status quo the respondent--Bank could not have taken steps under Section 14 of the Act for taking possession of the secured asset as the status quo was in respect of the secured assets itself.

5. In that view of the matter, order dated 10.06.2013 passed by respondent No. 1 is quashed. Now that the D.R.T. has concluded the proceedings on 14.04.2014. Respondent--Bank is at liberty to initiate fresh proceedings, if need be, under Section 14 of the Act. The writ petitions stand disposed in the aforesaid terms.

