

(2014) 02 KL CK 0176
In the High Court Of Kerala
Case No : WP (C) No. 5051 of 2014 (F)

Vivekananda

APPELLANT

Vs

The Authorized Officer Under Sarfaesi Act and Chief Manager,
The Federal Bank Ltd., The Authorized Officer The Federal
Bank Ltd. and The Manager the Federal Bank Ltd.

RESPONDENT

Date of Decision : 20-02-2014

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security
Interest Act, 2002 (SARFAESI) — Section 31(i)

Citation : (2014) 02 KL CK 0176

Hon'ble Judges : P.R. Ramachandra Menon, J

Bench : Single Bench

Advocate : U. Balagangadharan, Advocate for the Appellant

Final Decision : Dismissed

Judgement

P.R. Ramachandra Menon, J.—The petitioner is challenging the correctness and sustainability of the proceedings pursued by the respondent Bank invoking the remedy under the SARFAESI Act. Many a ground has been raised in the writ petition, in particular that the property concerned is an "agricultural land" which is outside the purview of the "Act" by virtue of Section 31(i) of the said Act. The learned counsel for the petitioner also submits that the petitioner could not approach the DRT due to the fact that the presiding officer recently retired from the office, on attaining the age of superannuation and that there is no regular sitting.

2. The regular sitting of the DRT has reportedly commenced w.e.f. 12.2.2014 and as such, it is always open for the petitioner to approach the DRT for redressal of his grievance. Moreover, there is a disputed question of fact, as to whether the property concerned is an agricultural land excluded by virtue of Section 31(i) or not. There cannot be interference by this Court as a matter of course, in view of the legal question made clear by the Apex Court as per the decision reported in

United Bank of India Vs. Satyawati Tondon and Others, .

In view of the above, this writ petition is dismissed of without prejudice to the rights of the petitioner to move the DRT.