

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 15TH DAY OF JUNE 2012

BEFORE

THE HON'BLE MR. JUSTICE AJIT J GUNJAL

W.P. NO. 8492 OF 2012 (GM)

BETWEEN

K. S. VASUDEVA TATACHAR
AGED 71 YRS,
S/O LATE K. S.SRINIVASA TATACHAR,
EARLIER WORKING AS OFFICER IN
MIDDLE MANAGEMENT GRADE SCALE-II,
STATE BANK OF MYSORE,
PPG SECTION, HEAD OFFICE,
BANGALORE – 560 009,
SINCE ILLEGALLY DISMISSED
FROM SERVICE &
R/AT NO.512, BHUVANASHREE,
11TH 'A' CROSS, 4TH MAIN,
BEL LAYOUT, III BLOCK,
VIDYARANYAPURAM,
BANGALORE – 560 097.

... PETITIONER

(By Sri. R. NAGENDRA NAIK, ADV.)

AND

STATE BANK OF MYSORE,
BASAVANAGUDI BRANCH,
K. R. ROAD, BASAVANAGUDI,
BANGALORE,

REPRESENTED BY ITS AUTHORISED OFFICER.

... RESPONDENT

(By Sri. DEEPAK, ADV.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE POSSESSION NOTICE ISSUED BY THE RESPONDENT BANK, DATED 16.01.2012 UNDER THE SARFAESI ACT, VIDE ANNEX-A.

This Writ Petition coming on for Preliminary Hearing in 'B' group, this day, the Court made the following:

O R D E R

The petitioner has called in question the possession notice issued by the respondent - Bank under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. It appears, proceedings were initiated as against the petitioner under the Securitisation Act. Notice under Sec. 13(2) was issued. It appears, the petitioner has not responded to the said notice. Hence, a possession notice has been issued. It is not in dispute that the respondent – Bank had filed a suit for recovery

of the housing loan. The said suit has been decreed, as against which, the petitioner is before this Court by way of Regular First Appeal in RFA No.965/2011 and this Court granted an interim order, subject to the petitioner depositing a sum of Rs.2 lakhs. According to the petitioner, it has been deposited.

2. Learned Counsel for the petitioner submits that the dispute in the first appeal is only in respect of interest component. He submits that when the matter is before this Court in regular first appeal, notice under Sec. 13(2) – taking possession does not arise.

3. Mr. Deepak, learned Counsel for the respondent submits that parallel proceedings are permissible. The petitioner is before the Debt Recovery Tribunal questioning Annexure 'A'. He has also questioned the impugned order. Hence, this present petition.

4. I am of the view that when the matter is pending adjudication before this Court in a Regular First Appeal, the respondent could not have issued the possession notice. Hence, the following order :

- i) Pending disposal of the application before the Debt Recovery Tribunal, Annexure-A stands suspended.
- ii) It is open for either of the parties to request the Court to have the Regular First Appeal disposed of early.

Petition stands disposed of accordingly.

**Sd/-
JUDGE**

mgn/-