

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

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WRIT PETITION No.36663 of 2015

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ORDER: *(Per Hon'ble Sri Justice R.Subhash Reddy)*

In this writ petition, the petitioners seek Mandamus to declare the auction notice, dated 17.10.2015, issued by respondents 1 and 2 in respect of the property shown as item No.4 i.e., the land admeasuring Ac.1.92 cents from out of Ac.2.92 cents in S.No.42/1, Chollangipeta Village, Tallarevu Mandal, East Godavari District, as illegal and arbitrary and to further direct the respondent Bank not to dispossess them from the said land of Ac.1.92 cents.

It is the case of the petitioners that in respect of the aforesaid property, they hold a registered Development Agreement-cum-General Power of Attorney, dated 16.11.2012, whereas the respondent – Bank, having obtained mortgage of the said property on 08.12.2013, is taking steps to sell the land under the provisions of the SARFAESI Act.

So far as auction notice dated 17.10.2015 is concerned, learned counsel for the respondent Bank submitted that pursuant to said auction notice, no auction was conducted for want of bidders, as such, the subject matter of the writ petition has become infructuous to the extent of this relief.

With regard to the claim of the petitioners over the subject land relying on Development Agreement – cum –General Power of Attorney and the relief sought by them to protect their possession on the basis of such document, no relief can be granted at this stage. However, if any notice is issued by the Bank to take further steps, it is open to the petitioners to question the same by way of application before the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

Granting liberty to the petitioners to approach the Debts Recovery Tribunal, if any further notice is issued, this Writ Petition is disposed of.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE R.SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

03.12.2015

v v