

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

WRIT PETITION No.35940 of 2015

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

This writ petition is filed by the petitioner seeking Mandamus declaring the action of respondent Nos.1 and 2 in taking steps to auction an extent of Acs.3.12 guntas (North-West portion) of land in Sy.No.56 of Bachupally Village, Quthbullapur Mandal, Ranga Reddy District, belonging to the purportedly along with the lands of respondent Nos.3 and 4 pursuant to the auction notice published on 30.09.2015 proposing to conduct auction on 07.11.2015, as arbitrary and illegal and consequently to set aside the same.

2. The 3rd respondent – Sri Keshava Reddy Educational Society, Nandyal, Kurnool District, has availed loan from the 2nd respondent-Bank by mortgaging the land to an extent of Acs.3.12 guntas (North-West portion) of land in Sy.No.56 of Bachupally Village, Quthbullapur Mandal, Ranga Reddy District. The petitioner claims that though he is the rightful owner of the said property, as respondent No.3 is in illegal possession of the same, he filed a suit being O.S.No.15 of 1997 on the file of the Principal Senior Civil Judge, Ranga Reddy District, for injunction simplicitor, wherein ad-interim injunction was granted on 03.01.1997, directing the defendants therein not to interfere with the petitioner's peaceful possession and enjoyment of the property. Subsequently, the said suit was transferred to the Court of Senior Civil Judge, Medchal, and re-numbered as O.S.No.376 of 2015.

3. Sri V. Hari Haran, learned counsel for the petitioner, contends that inspite of an objection taken by the petitioner that O.S.No.376 of 2015 is pending adjudication, the respondents are proceeding further to take possession of the subject property.

4. On the other hand, Sri M. Narender Reddy, learned Senior Counsel, representing Sri M. Srikanth Reddy, learned Standing Counsel for the respondent-Bank, submits that as of now, there is only a claim made by the petitioner, in which he may succeed or may not succeed. He would further submit that if the subject land is sold in the auction to be held on 7.11.2015, pursuant to the auction notice dated 30.09.2015, in the Sale Certificate, they will clearly indicate that such sale is subject to the result of the suit in O.S.No.376 of 2015.

5. In view of the said statement made by the learned Standing Counsel for the respondent-Bank and as the claim of the petitioner is pending adjudication in the aforesaid suit, we are not inclined to grant the relief sought for in the writ petition.

6. In view of the above, we deem it appropriate to dispose of the writ petition directing that in the event of selling the subject land, which is claimed by the petitioner, in the auction, respondent Nos.1 and 2 shall clearly indicate in the Sale Certificate that such sale would be subject to the result in O.S.No.376 of 2015 pending on the file of the Senior Civil Judge, Medchal, Ranga Reddy District.

7. Subject to the above directions, this writ petition is disposed of, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

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