

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

W.P.No.29320 OF 2015

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

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In this writ petition, the petitioners seek directions by way of Mandamus to declare the action of respondent No.1 in publishing Sale-cum-E-Auction Sale Notice dated 26.06.2015 in The Hindu daily newspaper for sale of house bearing No.16-2-836/1 with plot admeasuring 600 sq. yards situated at Madhava Nagar, Saidabad, Hyderabad as illegal, arbitrary and contrary to the procedure prescribed under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act').

The 2nd respondent has borrowed certain amounts from the 1st respondent bank by mortgaging house property covered by house bearing No.16-2-836/1 with plot admeasuring 600 square yards situated at Madhava Nagar, Saidabad, Hyderabad. In view of the default committed by the 2nd respondent in paying the loan amount, the 1st respondent bank has initiated proceedings under the SARFAESI Act. When notice under Section 13(4) of the SARFAESI Act was issued, the 2nd respondent – borrower has approached the Debts Recovery Tribunal and filed S.A.No.238 of 2015, in which conditional interim order was passed. As the said condition was not complied with, the 2nd respondent bank has proceeded further by issuing E-auction notice, sold the property and also issued sale

certificate in favour of the third party auction purchaser.

The petitioners herein, claiming to be the legal heirs of the original owner of the property in question, have also filed a suit in O.S.No.663 of 2015 on the file of Chief Judge, City Civil Court, Hyderabad and also filed the present writ petition questioning the E-auction notice. When the auction has already taken place pursuant to the sale notice dated 25.06.2015, and further, sale certificate is already issued in favour of the third party, no relief can be granted in this writ petition. It is also to be noted that S.A. filed by the 2nd respondent – borrower is also pending for consideration before the Debts Recovery Tribunal. If the petitioners are aggrieved of the action taken by the 2nd respondent, they may take appropriate steps before the Debts Recovery Tribunal, but they are not entitled for any relief in this writ petition.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

R. SUBHASH REDDY, J

A.SHANKAR NARAYANA,J

30.09. 2015

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DATED: 30.09.2015

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