

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.10097 OF 2011

DATED:23-7-2015

Between:

Yalavarthi Yaadavendra Swamy

And another ...Petitioners

And

State of A.P.,

Rep. by its Secretary

Agriculture & Co-operation Department

Secretariat Buildings

Hyderabad

... Respondents

... Respondents

COUNSEL FOR THE PETITIONERS: Mr. V.S.R. Anjaneyulu

COUNSEL FOR RESPONDENT NO.1:A.G.P. for Co-operation

COUNSEL FOR RESPONDENT NOS.2 to 4: Mr. Aravindu Maturi

COUNSEL FOR RESPONDENT NO.5: Mr. Abhisekh Dash, for

Mr. Devashish Dash

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to direct the respondents not to sell the petitioners' property in public auction, for recovery of the respective loan amounts due under loan account Nos.249 and 242.

I have heard Mr. V.S.R. Anjaneyulu, learned counsel for the petitioners, Mr. Aravindu Maturi, learned counsel for respondent Nos.2 to 4, and Mr. Abishek Dash, learned counsel, representing Mr. Devashish Dash, learned counsel for respondent No.5

The petitioners have availed loan of Rs.40,000/- each from respondent No.5 society. As they failed to repay part of the loan amount along with interest, respondent No.2, which is a financing body of respondent No.5, has approached the competent authority and obtained certificates under Section 71 of the A.P. Co-operative Societies Act, 1964, for recovery of the amounts fallen due as on 1.10.2005. In pursuance of the said certificates, respondent No.4 has brought the properties of the petitioners for sale for recovery of the amounts covered by the certificates. Feeling aggrieved by the same, the petitioners have filed this writ petition.

In their affidavit the petitioners have not made any averment regarding issuance of certificates under Section 71 of the Act. However, in the counter affidavit filed on behalf of respondent Nos.2 to 4 this fact has been pleaded. The petitioners who have suffered sale certificates cannot resist their execution. At best, they can only contest the correctness of quantum of the amounts claimed by respondent Nos.2 to 5 in execution proceedings.

At the hearing, Mr. V.S.R. Anjaneyulu, learned counsel for the petitioners, submitted that after filing of the writ petition his clients were able to get certain receipts showing payment of part of the loan amounts. However, these receipts have not been filed before the Court.

At any rate, the dispute is relating to actual quantum of the amounts payable by the petitioners. It is not possible for this Court to adjudicate the exact amounts due and payable by the petitioners. In my opinion, the appropriate authority to decide as to whether the petitioners have repaid any amounts and what precisely is their liability, is respondent No.4.

Therefore, the petitioners are permitted to make a comprehensive representation to respondent No.4, supported by the material such as original receipts in proof of repayment of loan amounts, within one month from today. On receipt of such representation, respondent No.4 shall hold a detailed enquiry and determine exact liability of the petitioners before taking further steps for recovery of the amounts claimed by respondent No.2 in the execution petitions. Till this process is completed, the properties of the petitioners shall not be sold in auction.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.12443 of 2011 and W.V.M.P. No.4226 of 2011 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

23-7-2015

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