

THE HON'BLE SRI JUSTICE RAJA ELANGO

Writ Petition No.18713 of 2006

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ORDER :

This Writ Petition is filed by one, Mr.D.Hanumantha Reddy in the guise of General Power of Attorney Holder of one, Smt.N.Chandrakala, who is the daughter of the 04th respondent, seeking to issue a writ of *Mandamus* to declare the action of the

1st respondent in proceeding with the sale of the petitioner's land in Sy.No.205 and Sy.No.206 to an extent of Ac.2.51 cents situated at Upparpalli Village, Anantapur District, without issuing any notice to the petitioner, as illegal and arbitrary and consequently direct the

1st respondent not to confirm the sale auction dated 28-12-2005.

2. The brief facts of the case are as follows :

The 4th respondent approached the respondent-bank and requested for a loan and for which, she has mortgaged a property to an extent of Acs.8.85 cents of land. On verification of documents, the respondent-bank found that land in Sy.Nos.205 and 206 does not belong to the 4th respondent and it belongs to her daughter Smt.Chandrakala and the same was

informed to the 4th respondent.

In this regard, she has also produced the registered sale deed, dated

20-03-1984, wherein Smt.Chandrakala and others have purchased the property from its original owner V.Konda Reddy and Others. Along with the sale deed, she has also executed an equitable mortgage in favour of the bank. Later, after the field inspection, the bank has granted a loan of Rs.64,000/- to the 4th respondent.

3. When the 4th respondent failed to repay the loan amount, the

respondent-bank has issued auction notice on 25-04-2005 informing that they are auctioning the mortgaged properties. On such notice, the

4th respondent requested the bank to postpone the auction informing that she would discharge the loan amount within a period of one month. However, in spite of grant of one month time, the

4th respondent failed to repay the loan amount. Hence, a fresh sale notice was issued on 06-06-2005. Again, the 4th respondent requested for one week time to pay the amount and again she failed to repay the loan amount.

Thus, again, a fresh sale notice was issued on

28-12-2005 proposing to conduct auction on 08-01-2006.

Subsequently, on 08-01-2006 the said property was auctioned and in the said auction, the 6th respondent

became the highest bidder and the sale was duly knocked down in his favour for a sum of Rs.2,40,000/- with registration fee of Rs.39,000/-. The 6th respondent has paid the entire sale consideration within the period prescribed and at the time of confirmation of sale, the petitioner herein filed this writ petition with a prayer to set aside the sale in favour of the 6th respondent on the ground that he is the General Power of Attorney Holder and without his knowledge, the bank should not have auctioned the property.

4. It is to be noted that even as per the petitioner, Smt.Chandrakala has given the General Power of Attorney to him on 24-01-1990, whereas the property was mortgaged by Smt.Chandrakala in the year 1991, even during the existence of the General Power of Attorney. The petitioner is not having any right to challenge the auction conducted by the respondent-bank, when the owner of the property herself mortgaged the property in favour of the respondent-bank. Hence, this Court is of the considered view that this writ petition is not maintainable by this petitioner.

5. The Writ Petition is accordingly dismissed as devoid of merit. There shall be no order as to costs. As a sequel, miscellaneous petitions pending, if any, in this Writ Petition are closed.

JUSTICE RAJA ELANGO

09th February, 2015

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