

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 6741 of 2004

Date: 11.03.2015

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Between:

Lakkamraju Venkatarama Raju

... Petitioner

And

The Collector and District Magistrate,
Krishna District & others.

... Respondents

This Court made the following:

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 6741 of 2004

ORDER:

This writ petition was filed assailing the action of the respondents in seeking to put to sale by way of public auction the land admeasuring Ac.2.00 cents in R.S.No.80 of Vemavaram Village, Vijayawada Rural Mandal, Krishna District. A consequential direction was sought to the effect that the said land, being the petitioner's joint family property, could not be sold by way of a public auction pursuant to proceedings initiated under the Revenue Recovery Act.

It is stated by Mr. Ashwin Kumar, learned counsel appearing for the petitioner, that the father of the petitioner, though alive at the time of institution of the writ petition, expired thereafter.

It is an admitted fact that the petitioner's father was due and liable to pay certain sums of money to the State towards Abkari dues and the said liability was confirmed by the Supreme Court also. It is however the grievance of the petitioner that for recovery of the said dues, the respondent authorities, instead of proceeding against the guarantors for the said dues, were seeking to put to sale their joint family property. The petitioner would state that he, along with his major sons, would have independent shares in the said joint family property and therefore, the respondent authorities could not sell away the undivided share of the petitioner's father therein, for effecting recoveries.

By order dated 08.04.2004 this Court granted interim stay of all further proceedings, including sale by way of public auction of the

subject land. No counter affidavit has been filed despite the lapse of over a decade since the institution of this writ petition.

However, having heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondent authorities, this Court is of the opinion that the matter is amenable to disposal as the issue falls within a narrow compass.

The liability of the petitioner's father is not in dispute. That being so, it is for the respondent authorities to proceed in accordance with law for effecting recovery of the said dues. In that regard, it would also be open to them to proceed against the estate of the deceased father of the writ petitioner.

Needless to state, they would have to do so strictly in accordance with the procedure laid down by law. It would also be open to them to take alternative measures for effecting recovery, including proceeding against the guarantors in accordance with law. The impugned sale notification is therefore set aside and the writ petition is allowed to the extent indicated above. Interim order dated 08.04.2004 shall stand vacated.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

Date: 11.03.2015
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