

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.32192 of 2011

Date:01.06.2015

Between:

Suguru Boya Nagesh

..... Petitioner

And:

The District Registrar of Cooperative Societies

Kurnool and 2 others.

.....Respondents

Counsel for the Petitioner: Sri S.Lakshminarayana Reddy

Counsel for Respondents 1 & 2: AGP for Co-operation

Counsel for respondent No.3: None appeared

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the action of the respondents in seeking to sell the petitioner's dwelling house bearing No.167 (New House No.9/220), situated at Mugithipeta, Yemmiganoor, Kurnool District under sale notice, dated

14.11.2011, as illegal and arbitrary.

I have heard Sri S.Lakshminarayana Reddy, learned counsel for the petitioner and perused the record.

The petitioner has obtained loan from respondent No.3 and committed default in repayment of the same. Proceedings for recovery of the debt appeared to have been initiated by respondent No.3. Form No.9 issued by respondent No.2, under Rule-52(11) (e) of the Andhra Pradesh Co-Operative Societies Rules, 1964, is questioned in this Writ Petition.

A perusal of the impugned notice shows that the same was issued in E.P.No.264/98-99 and in the said notice, it is stated that the property belonging to the petitioner shown therein will be sold in pursuance of the decree/award/decision/order issued in favour of respondent No.3.

To the query of the Court, learned counsel for the petitioner submitted that the very fact that respondent No.3 instituted an E.P. shows that his client has suffered a certificate under Section 71 of the Andhra Pradesh Co-Operative Act, 1964 (for short 'the Act'). He has also submitted that evidently, his client has not questioned the said Certificate.

In my opinion, unless the petitioner questions the Certificate issued under Section 71 of the Act by availing the remedy of statutory appeal under Section 76 of the Act, the consequential sale notice issued in the E.P. filed by the Certificate holder cannot be questioned by the petitioner by availing the remedy under Article-226 of the Constitution of India. Therefore, this Writ Petition cannot be entertained. The petitioner is, however, left with the liberty of availing appropriate legal remedy if he feels aggrieved by the Certificate/decreed passed against him.

Subject to the liberty given to the petitioner as above, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.39996 of 2011 is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

1st June, 2015

DR