

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

WRIT PETITION No.41034 of 2015

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

In this writ petition, the petitioner has questioned the e-auction sale notice dated 13.11.2015, fixing the date of auction of the secured asset as 18.12.2015 in exercise of powers under the SARFAESI Act.

The petitioner claims that she has entered into an agreement of sale to purchase the house property bearing H.No.5-570/10C in Plot No.10-C, D2, admeasuring 285 sq. yards, in Sy.No.35, 36 & 37 of Jonnabanda, Alwal Village, Malkajgiri Mandal, Ranga Reddy District. Originally the said property was owned by the 2nd respondent and he has mortgaged the same with the 1st respondent Bank for availing loan facility. In view of the default committed by the 2nd respondent in repayment of the amount, the 1st respondent Bank has initiated measures under the SARFAESI Act and issued the impugned sale notice. Earlier the 3rd respondent has claimed the very same property from the 2nd respondent based on the registered sale deed, but the 2nd respondent has filed a suit seeking cancellation of such sale deed and the same is pending before the civil Court.

The petitioner claims that she has purchased the

property in question by way of an agreement of sale. However, as the property was mortgaged with the 1st respondent Bank prior to the sale in favour of the petitioner, the petitioner cannot claim any rights based on unregistered agreement of sale. Further, in view of the alternative remedy available under the SARFAESI Act itself, there is no reason to entertain this writ petition.

For the aforesaid reasons, the writ petition is dismissed.
No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

17.12.2015
v v