

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.38469 OF 2015

ORDER:

Heard learned counsel for the petitioner and Sri B.S. Prasad, learned Standing Counsel for the 1st respondent - Bank.

The petitioner has purchased Plot Nos.36 and 43 each admeasuring 500 sq. yards of land in Survey No.70 of Kondapur Village, Serilingampally Mandal, Ranga Reddy District, under a registered agreement of sale-cum-General Power of Attorney executed by the 2nd respondent and his vendor 3rd respondent under document No.4209 of 1997. The petitioner at that time reported that the original sale deed of the vendors document No.2219 of 1993 was misplaced and on the basis of its certified copy, the transaction took place. The petitioner, however, later came to know that respondents 2 and 3 in fact obtained a loan by mortgaging the original title document with the 1st respondent and that the 1st respondent instituted O.A.No.427 of 2011 before the Debts Recovery Tribunal, Hyderabad, and taken up proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 against the borrower. Thereafter, borrowers 2 and 3 only appeared to have settled the loan account. However, the original title document, as above, remains with the 1st respondent. The petitioner now seeks that the said document be returned to it, in view of transfer in its name and filed the present Writ Petition alleging inaction on the part of the 1st respondent.

It is evident from the facts, referred to above, that so far as the loan advanced by the 1st respondent is concerned, the petitioner is a third party and there is no privity of contract and it may be that respondents 2 and 3, who have transferred their right in

favour of the petitioner under the agreement of sale-cum-General Power of Attorney, but that by itself is not sufficient to create any privity between the petitioner and the 1st respondent.

If the petitioner seeks a claim for return of the said title document to it, it has to approach the 1st respondent by producing appropriate authorisation from respondents 2 and 3 to enable it to receive the said title document.

Learned Standing Counsel for the 1st respondent - bank states that the loan account is already cleared and there is no impediment to return the original sale deed to the borrower or their authorised representative. Hence, no relief as sought for by the petitioner can be granted. However, the petitioner is at liberty to approach the 1st respondent, as aforesaid, with necessary authorisation of respondents 2 and 3.

The Writ Petition is accordingly disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V.AFZULPURKAR, J

10.12.2015

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