

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

WRIT PETITION No.3355 of 2015

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

This writ petition is filed by the petitioner seeking *Mandamus* to declare the action of the 3rd respondent-Bank in not complying with the order dated 31.10.2014 in S.A.No.374 of 2012 passed by the Debts Recovery Tribunal, Hyderabad, so far as refund of the amount deposited by him towards sale consideration of the property to an extent of 301 square yards in Sy.No.99, situated at Prabhakar Reddy Nagar, Fathenagar Village, Balanagar Mandal, Kukatpally Municipality, Hyderabad, along with interest thereon, as arbitrary and illegal.

2. When proceedings were initiated by the 3rd respondent-Bank against the 2nd respondent-Firm under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the petitioner has participated in the auction conducted on 6.8.2012, for sale of the property to an extent of 301 square yards in Sy.No.99, situated at Prabhakar Reddy Nagar, Fathenagar Village, Balanagar Mandal, Kukatpally Municipality, Hyderabad, and he was declared as the highest bidder. The 2nd respondent-Firm has challenged the sale notice dated 4.7.2012, by way of appeal being S.A.No.374 of

2012 before the Debts Recovery Tribunal, Hyderabad. The Tribunal, by order dated 31.10.2014, has allowed the said appeal by setting aside the Tender/auction sale notice dated 4.7.2012, and consequently the auction sale of the schedule property conducted on 6.8.2012 and the sale certificate dated 30.8.2012 executed by the 3rd respondent-Bank in favour of the 2nd respondent-Firm are also set aside. The 3rd respondent-Bank was directed to take possession of the schedule property from the petitioner herein and return the amount deposited by him towards sale consideration of the schedule property with interest, as applicable.

3. In this writ petition, it is the grievance of the petitioner, who is the auction purchaser, that inspite of directions of the Tribunal, vide order dated 31.10.2014 in S.A.No.374 of 2012, the 3rd respondent-Bank is not returning the amount with interest, as directed.

4. When the matter is called for hearing, Sri T.K. Chitta, learned Standing Counsel for the 3rd respondent-Bank, has produced a copy of the order dated 3.3.2015 in Appeal No.2 of 2015 passed by the Debts Recovery Appellate Tribunal, Kolkata, before this Court and the same is made part of the record.

5. From a perusal of the said order, it is clear that the Debts Recovery Appellate Tribunal, Kolkata, has allowed the Appeal No.2 of 2015 preferred by the 3rd respondent-

Bank, setting aside the order dated 31.10.2014 and dismissing S.A.No.374 of 2012.

6. In view of the order dated 3.3.2015 in Appeal No.2 of 2015 passed by the Debts Recovery Appellate Tribunal, Kolkata, the petitioner is not entitled for the relief, as prayed for. If the petitioner is aggrieved by the order dated 3.3.2015 in Appeal No.2 of 2015, it is open to him to challenge the same in an appropriate proceedings.

7. For the aforesaid reasons, this writ petition is devoid of merits and is accordingly dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

30.06.2015.

Msr

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