

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT PETITION No.24682 of 2015

ORDER:

Heard the learned counsel for petitioners and the learned Government Pleader for respondents 1 to 4.

2. The petitioners are brothers of the fifth respondent, who took loan from the second respondent by mortgaging their immovable properties. Thereafter, an Award was passed in favour of the second respondent by the fourth respondent. The said properties were attached in E.P.No.1/2014-2015. It appears that third parties filed W.P.No.29613 of 2014 and W.P.No.3793 of 2015 independently claiming rights in a portion of the said properties in survey Nos.143, 144, 145 and 146, situated at Guduru Village, Atmakur Mandal, Mahabubnagar District and by virtue of the orders passed by this Court in the said Writ Petitions, those properties could not be sold. However, in respect of other properties, the present Writ Petition is filed stating that the petitioners are the owners of an extent of Acs.9-29 guntas out of Acs.27-16 guntas in survey Nos.143, 144, 145 and 146, which was mortgaged in favour of the second respondent. In this Writ Petition, the attachment made of the properties of the petitioners in E.P.No.1/2014-2015 is under challenge. The petitioners wanted to place reliance on the orders passed in W.P.No.29613 of 2014, and in those circumstances, this Court called for the said file and heard the counsel, who appeared in that case. It came to light that the petitioners therein purchased the property without knowing the mortgage of the land and they are no way connected with the family of the fifth respondent. But, in the instant case, the petitioners are admittedly the members of the family belonging to the fifth respondent.

3. In the circumstances, the relief that was granted in W.P.No.29613 of 2014 is not extended and cannot be extended in this case also. In view of the mortgage of the lands by the fifth respondent in favour of the

second respondent, it cannot be held that the attachment made in E.P.No.1/2014-2015 for realizing the decretal amount due by the fifth respondent cannot be held illegal. However, it is open to the petitioners to take appropriate proceedings before the fourth respondent for raising the attachment, if they are advised.

4. The Writ Petition is, accordingly, disposed of. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 21.08.2015

TJMR