

HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A. SHANKAR NARAYANA
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WRIT PETITION No.18817 OF 2015

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

This writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking Writ of *Mandamus* to declare the action of respondent Nos.1 and 2 viz., the Chief Manager & Authorized Officer of Andhra Bank, Zonal Office, Kakinada and the Manager, Ravulapalem Branch of Andhra Bank, respectively, in initiating proceedings under the Securitisation And Reconstruction of Financial Assets And Enforcement of Security Interest Act, 2002 (for short 'the Act), in respect of house property in an extent of 280.25 square yards in R.S. No.26/1, Ward No.2, Ubalanka village of Ravulapalem Mandal in East Godavari District, as illegal and arbitrary.

2. Respondent No.3 availed loan facility from respondent Nos.1 and 2 offering the subject property as security by creating equitable mortgage. Subsequently, respondent No.3 defaulted in repayment of the loan amount. In order to realise the loan amount, respondent Nos.1 and 2 declared the account of respondent No.3 as

N.P.A. and steps have been taken under the Act.

3. It is the case of the petitioner that he entered into an agreement of sale with respondent No.3 for purchase of the subject property for a total sale consideration of Rs.45.00 lakhs and paid an advance of Rs.35.00 lakhs in cash. However, since respondent No.3 failed to register a regular sale deed by receiving balance amount of Rs.10.00 lakhs, though he is ready to perform his part of contract, he filed O.S. No.10 of 2015 on the file of II Additional District Judge at Amalapuram, for specific performance of agreement of sale. On coming to know that respondent No.3 availed the loan facility from respondent Nos.1 and 2 and still due an amount of Rs.9,25,000/- and odd, the petitioner prepared to pay/deposit a sum of Rs.9,48,100/- by way of demand draft, out of the balance sale consideration to be paid by him to respondent No.3, towards the loan account of respondent No.3. However, since respondent Nos.1 and 2 did not accept for the same, the petitioner approached this Court by filing the instant writ petition.

4. Since the petitioner is ready to pay/deposit Rs.9,48,100/- by way of demand draft and came forward with the demand draft bearing No.533013623, dated 26-05-2015, of Bank of India, for the said sum, this Court, by order, dated 25-06-2015, stayed further proceedings in

the matter on condition of petitioner depositing the said demand draft.

5. Respondent Nos.1 and 2 filed counter denying the allegations made by the petitioner. It is stated that pursuant to the order of this Court on 25-06-2015, the petitioner presented the demand draft for Rs.9,48,100/-. Though, this Court directed respondent Nos.1 and 2 to keep the said amount in 'interest bearing account', the same was kept in 'sundry account' since the petitioner has not furnished the required documents i.e., PAN Card, Aadhaar Card etc. It is further stated that since respondent No.3 deposited a sum of Rs.98,000/- towards defaulted installments, her account is upgraded to performing asset, and the liability is brought down to Rs.8,79,243/- by 25-06-2015. It is also stated that as the account of respondent No.3 is in order, respondent Nos.1 and 2 are not proceeding further against her under the Act and that they are ready to return the amount to the petitioner.

6. Inasmuch as respondent Nos.1 and 2 stopped further proceedings in the matter, no further directions are required to be issued except directing respondent Nos.1 and 2 to return the amount of Rs.9,48,100/- to the petitioner which was paid by him by way of demand draft, and they are, accordingly, directed. So far as

O.S. No.10 of 2015, said to have filed by the petitioner against respondent No.3 before the learned II Additional District Judge at Amalapuram for specific performance of agreement of sale, is concerned, he has to work out the remedies available to him in the suit.

7 . With the above directions, the Writ Petition is disposed of. No order as to costs.

8. As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition, stand disposed of.

**R. SUBHASH
REDDY, J**

A. SHANKAR NARAYANA, J

August 06, 2015.
Mgr