

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.36660 of 2015

Date:12.11.2015

Between:

Kattula Markandeyulu,
S/o Late Chenna Kesava Rao
and two others.

..... Petitioners

And:

The Court of the Senior Civil Judge,
Bapatla Town, Guntur District
and four others.

.....Respondents

Counsel for the Petitioners: Mr. Gade Venkateswara Rao

Counsel for Respondent No.5: AGP for Co-Operation (AP)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Prohibition* restraining respondent No.1 from proceeding with O.S.No.151 of 2008 on his file.

At the hearing, Mr. Gade Venkateswara Rao, learned counsel for the petitioners, submitted that though a remedy of appeal under Section 76 of the Andhra Pradesh Co-Operative Societies Act, 1964 was available to respondent No.2, she has filed the above-mentioned suit against the sale of the properties made by respondent No.4 for recovery of the dues owed by her to respondent No.3-bank. Learned counsel has, however, fairly conceded that his clients have not got a preliminary issue framed regarding maintainability of the said suit.

In my opinion, a Writ of Prohibition is issued in the cases, where there is an express bar of jurisdiction. In the absence of such bar, I am not inclined to entertain this Writ Petition, especially, more than eight years after filing of the suit. However, the petitioners are permitted to raise the objection relating to jurisdiction of the civil Court of respondent No.1 to entertain and adjudicate the above-mentioned suit on merits. The petitioners are also permitted to avail appropriate remedy in order challenge the proceedings of respondent No.1 permitting respondent No.2 to deposit the due amount by way of redemption.

Subject to the above observations, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, W.P.M.P.No.47227 of 2015 shall stand disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

12th November, 2015

DR