

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

W.P. Nos.2042 and 2043 of 2015

COMMON ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri A.Mahadev, Learned Counsel for the petitioner, and Sri S.Sainathan, Learned Counsel for the respondent – Bank and, with their consent, the Writ Petition is disposed of at the stage of admission.

The petitioners, in both the Writ Petitions, claim to have purchased the subject flats by way of a registered sale deed dated 03.11.2006, and to be in possession of the subject flats ever since. It is their case that, based on an agreement of sale – cum- General Power of Attorney with possession dated 02.01.2004, the builder had fraudulently alienated the very same flats by way of a registered sale deed dated 29.09.2004 in favour of Sri M.Sudhakar Rao (a non-existent and fictitious person); on the basis of such a sale deed, a loan was secured from the respondent – Bank in the name of the fictitious person; on failure to pay the loan instalments within time, action has now been taken by the respondent -Bank to put the subject property to sale; and the petitioner is being dispossessed in the process.

Sri A.Mahadev, Learned Counsel for the petitioner, would also refer to an order passed by the Debt Recovery Tribunal (DRT), Hyderabad, in S.A.No.240 of 2010 filed by another flat owner, in the very same building, making similar allegations of fraud; and the DRT had allowed the appeal by its order dated 18.01.2013.

As the petitioner has an effective remedy of preferring an

appeal to the DRT under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, we see no reason to entertain this Writ Petition. However, since allegations of fraud are made, ends of justice would be met if respondent Nos.1 and 2 are directed not to dispossess the petitioner from the subject property for a period of two weeks from today. In case the petitioner does not invoke the jurisdiction of the DRT in the interregnum and, if no orders of stay are passed by the DRT within two weeks, it is open to the respondents to proceed in accordance with law thereafter.

Both the Writ Petitions stand disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY,J

Date:05.02.2015
Note:CC tomorrow
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