

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION No.25812 of 2015

Between:

M.Lakshmi Narayana.

....Petitioner

and

The Principal Senior Civil Judge,
Ranga Reddy District, L.B.Nagar,
Hyderabad, and others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 17.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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|----|--|--------|
| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be Marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether His Lordship wishes to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.25812 of 2015

ORDER:

The petitioner availed a loan of Rs.9,80,000/- from the second respondent for running his hardware business in the year 1995 and mortgaged property bearing No.5-49, Plot No.2, Survey No.36 admeasuring 365 square yards situated at Street No.8, Habsiguda, Ranga Reddy District, which presently bears H.No.1-5-49, Plot No.2, Street No.8. The said property continued to be under mortgage with the

second respondent. While so, a Consumer Dispute was raised by the third respondent in C.D.No.49 of 1994 for an amount of Rs.88,884/- with 18% interest, which came to Rs.1,04,000/- by the date of passing of award against the petitioner. The third respondent filed E.P.No.57 of 1997 on the file of the first respondent and the property was brought to sale. The said property, which was brought to sale, consists of three mulgies in the property mortgaged in favour of the second respondent. The petitioner filed E.A.No.130 of 2004 in E.P.No.57 of 1997 in C.D.No.49 of 1994 for setting aside the sale, and the said petition was dismissed on 25.11.2004. The petitioner, thereafter, filed E.A.No.167 of 2009 to set aside sale proceedings dated 03.09.1997 in E.A.No.117 of 1998 in E.P.No.57 of 1997 by canceling the sale certificate. The same was dismissed on 13.06.2014 by the first respondent. Challenging the same, the petitioner filed C.R.P.No.2204 of 2014, which was dismissed on 14.08.2014. After dismissal of the Civil Revision Petition, the present Writ Petition is filed challenging the certificate of sale dated 07.04.1998 issued by the first respondent consequent to the orders in E.P.No.57 of 1997 in C.D.No.49 of 1994, dated 05.11.1997, as contrary to the provisions of the Andhra Pradesh Cooperative Societies Act, 1964.

Learned Counsel for the petitioner submits that a part of the property cannot be sold when the entire property is under mortgage with the second respondent and the property was brought to sale due to the fraud played by the fourth respondent. Learned Counsel for the petitioner submits that the petitioner cleared the loan amount with the second respondent and in order to perpetuate his illegality, the fourth respondent filed a suit for perpetual injunction in respect of the property in O.S.No.2062 of 2014 and the said suit is pending adjudication before the first respondent.

It is not the case of the petitioner that he was not a party to the proceedings in C.D.No.49 of 1994 and in E.P.No.57 of 1997. The certificate of sale was issued way back on 07.04.1998 and the petitioner,

having filed E.A.No.130 of 2004 and E.A.No.167 of 2009 in E.P.No.57 of 1997 and after dismissal of the same having filed C.R.P.No.2204 of 2014, is not entitled to canvass the same issue in the present Writ Petition.

In the circumstances, the Writ Petition is liable to be dismissed, and the same is, accordingly, dismissed at the admission stage. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

17.08.2015

vs