

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.633 of 2016
and C.M.P.Nos.8246 to 8248 and 8744 of 2016

1.Rathna Stores (Firm)
Represented by its Partner,
91, Pondy Bazaar,
T.Nagar, Chennai - 600 017.

2.S.Krishna Kumar

..Appellants

Vs.

1.Rainbow Foundations Limited,
Rep. by its Joint Managing Director
Gajraj Jain,
4, Thanikachalam Road,
T.Nagar, Chennai - 600 017.

2.Authorised Officer
State Bank of India,
Stressed Assets Management Branch,
No.32, Montieth Road,
Red Cross Buildings, Egmore,
Chennai - 600 008.

3.The Sub-Registrar,
Purasaiwalkkam,
Chennai - 600 007.

..Respondents

Writ Appeal filed under Clause 15 of Letters Patent against
the order dated 12.04.2016 made in W.P.No.11989 of 2016.

WP.No.11989 of 2016:Writ Petition filed under Article 226 of the
Constitution of India, praying for Issuance of a Writ of
Mandamus, directing the 2nd Respondent to register and return
the sale certificate issued by the Ist respondent dated
23/3/2016.

For appellants : Mr.P.R.Raman

For respondents

R1 : Mr.Paramasivadoss
for Mr.K.Raajasekaran
R2 : Mr.E.Om Prakash
for M/s.Ramalingam Associates
R3 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

Heard the learned counsel appearing for the appellants, learned counsel appearing for the first respondent, the learned counsel appearing for the second respondent and the learned Special Government Pleader appearing for the third respondent.

2.It appears that in connection with the impugned order passed by the learned Single Judge in W.P.No.11989 of 2016, the judgment debtor is before this Court on the ground that the base reserve price was fixed by the second respondent herein as RS.14,57,00,000/- for the subject property, the market value of which is worth not less than Rs.30,00,00,000/- and the appellant/auction purchaser had bid for the property at just Rs.1,00,000/- above the base price and there was no other bidder than the writ petitioner. It is further submitted that the appellants are entitled to be heard in the matter before passing any order.

3.The learned counsel for the first respondent/writ petitioner, before the learned Single Judge, has submitted that these appellants are not necessary parties as there is a direction by the learned Single Judge to the Sub-Registrar to act upon and to issue a sale certificate to the first respondent/writ petitioner since there is no locus standi or right available to the appellants in this regard.

4.Having heard the learned counsel for the respective parties, we are of the view that since huge amount is involved in this matter and the property was sought to be registered in favour of the writ petitioner/first respondent in meeting out the loan raised by the judgment debtor and there appears to be some violation of market value of the property, a fair opportunity must be given to the judgment debtor to express his grievance or to have a say in the matter. Though strictly a direction has been issued by the learned Single Judge, the fact remains that while dealing with the property mortgaged with the bank which has lent money to the judgment debtor, an opportunity

ought to have been given to the judgment debtor, who is ready to pay the amount which is due to the bank. Here, in this case, the first respondent/writ petitioner has deposited the amount and already the property has also been registered in favour of the auction purchaser.

5.Be that as it may. In the interest of justice, this Court is of the considered view that one more opportunity may be given to the judgment debtor and for that purpose it would be suffice to remand the matter back to the learned Single Judge. Accordingly, the matter is remanded back to the learned Single Judge and the appellants be impleaded as parties, so that the grievance of the appellants could be heard and considered before passing any orders. The appellants are directed to file an application for impleading themselves at the earliest before the learned Single Judge. The order passed by the learned Single Judge in W.P.No.11989 of 2016 dated 12.04.2016 is modified to the effect as stated above.

6.The writ appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CSII)

True Copy

Sub-Assistant Registrar

cse

To

1.Rainbow Foundations Limited,
Rep. by its Joint Managing Director
Gajraj Jain,
4, Thanikachalam Road,
T.Nagar, Chennai - 600 017.

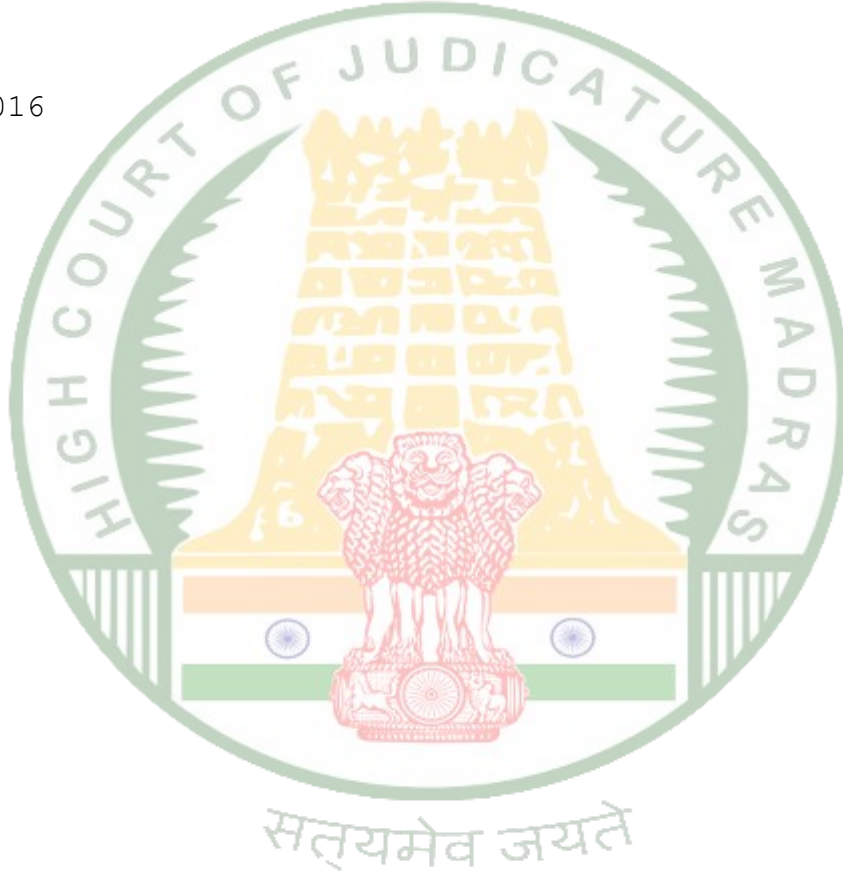
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No.32, Montieth Road,
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3.The Sub-Registrar,
Purasaiwalkkam,
Chennai - 600 007.

+1 cc to M/s.P.R.Raman Advocate sr.31614
+1 cc to M/s.K.Rajasekaran Advocate sr.31514
+1 cc to Government Pleader sr.31538

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