

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2702 OF 2016

ORDER:

This revision is filed under Article 227 of the Constitution of India challenging the return endorsement made on the petition filed under Section 151 of Code of Civil Procedure requesting to send the sale certificate for registration.

The petitioner is an auction purchaser and admittedly he paid the bid amount to the credit of the suit and the petition filed by the wife of the Judgment Debtor (J.Dr.)/3rd respondent was dismissed by the execution Court, against which an appeal was preferred and the same is pending before this Court. This Court refused to grant any interim stay vide its order dated 03.04.2014 in CCCAMP.No.73 of 2014 in CCCA.No.17 of 2014 and made clear that the sale shall be subject to result of the appeal.

The executing Court also refused to confirm the sale by docket order dated 24.04.2014 in E.P.No.22 of 2009 in O.S.No.197 of 2008. Again the matter was carried in revision and this Court by its order dated 21.08.2015 in C.R.P.No.1607 of 2015 directed the executing Court to confirm the sale subject to the judgment/order to be passed in CCCA.No.17 of 2014, which is pending before this Court. Thereafter, the revision petitioner/auction purchaser filed a petition for sending the sale certificate for registration in terms of Section 17 (f) of the Indian Registration Act, 1908, but the trial Court raised similar objection again as to the maintainability of the petition during pendency of CCCA.No.17 of 2014 in view of the order passed in C.R.P.No.1607 of 2015.

No doubt, the Division Bench of this Court by its order dated 03.04.2014 in CCCAMP.NO.73 of 3014 in CCCA.No.17 of 2014 made clear that the sale shall be subject to result of the

appeal; that does not mean that the executing Court is precluded from proceeding further. In the later order in C.R.P.No.1607 of 2015 dated 21.08.2015 made clear that there is no fetter to proceed further in the execution proceedings. The auction purchaser has complied with all the requirements and deposited amount including stamps for issue of sale certificate and sale certificate was prepared, but the same was not sent for registration under Section 17 (f) of the Indian Registration Act, 1908.

In the absence of any direction by any higher Court not to send the sale certificate for registration, the objection taken by the executing Court is unsustainable and even if the sale certificate was issued to the auction purchaser and confirmation of title on the auction purchaser shall be subject to the result in CCCA.No.17 of 2014. Therefore, the executing Court is directed to send the sale certificate to the Registrar for registration as requested by the petitioner and again it is made clear that sending sale certificate to the Registrar for its registration, delivery of sale certificate to the auction purchaser and all other proceedings shall be subject to result in CCCA.No.17 of 2014 pending before this Court.

With the above directions, the revision is disposed of. No order as to costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.08.2016

Note: Issue C.C. by 24.08.2016

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