

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.11656 of 2008

ORDER:

Respondent No.2 is the wife of one D.V.Ravindranath, who worked as Secretary of the petitioner Society. An order of surcharge was passed against him and subsequently an award was passed on 08.01.2002 for recovery of Rs.5,26,605/- with future interest @ 18% per annum from 01.11.1998 till the date of realization. E.P.No.1/2002-2003 was filed before respondent No.1 for recovery of the awarded amount. When the property was brought to sale, respondent No.2 approached this Court and filed W.P.No.13301 of 2004 stating that she filed a claim petition asserting her right over the property stating that it was her personal property. Respondent No.1 through the order dated 04.08.2007 held that the property is the personal property of respondent No.2 and it does not belong to late Ravindranath and further held that the Society can identify the properties belonging to him for recovery of the misappropriated amount. Challenging the same, the present writ petition was filed.

Learned counsel for the petitioner submits that even though the petitioner submitted the representation on 20.10.2007 seeking certain documents, which led to passing of the impugned order, the documents were not supplied to the petitioner. Learned counsel further submits that no opportunity was given to the petitioner before passing the order.

A counter affidavit is filed by respondent No.1 stating that the properties of respondent No.2 was identified by the petitioner Society in E.P.No.1/2002-2003 and the property was attached. A sale notice dated 26.07.2004 was issued by the Sale Officer. Challenging the said sale notice, respondent No.2 filed W.P.No.13301/2004 and the same was disposed of on 20.11.2006 directing respondent No.1 to dispose of the claim petition filed by respondent No.2. In pursuance of the said order, the claim petition filed by respondent No.2 was disposed of by respondent No.1, which is impugned in the present writ petition. The petitioner as well as respondent No.2 were provided several opportunities and though the petitioner attended for hearing five times, it did not raise any objection nor filed any material to disprove the claim of respondent No.2.

A perusal of the impugned order shows that appropriate opportunity was given to the petitioner herein by respondent No.1, but the petitioner has not filed any objections or written arguments against the claim of respondent No.2, who appeared before respondent No.1 in the claim petition. In those circumstances only, the impugned order was passed. Since the petitioner did not avail the opportunity provided by respondent No.1, this Court sees no ground to interfere with the order passed by respondent No.1 on 04.08.2007.

Accordingly, this Writ Petition is dismissed. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

19.10.2016
MVA

