

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice G.Shyam Prasad

Writ Petition No.30515 of 2016

Date: 14.09.2016

Between:

Venu Goli

... Petitioner

and

The Union of India
rep. by the Ministry of Finance
New Delhi and 4 others

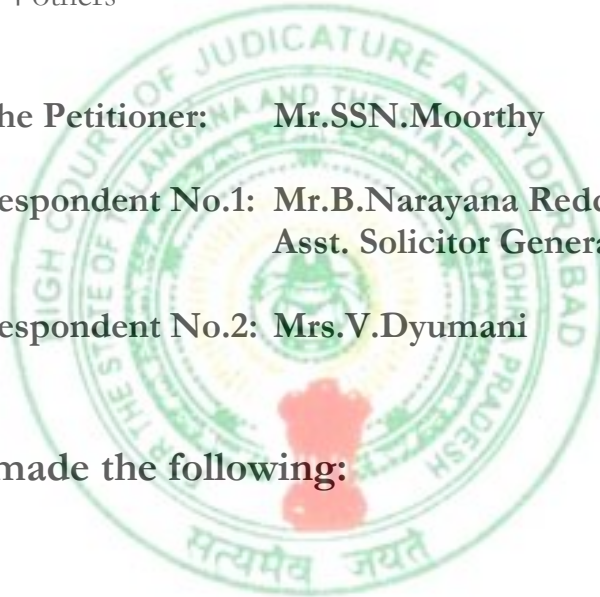
...Respondents

Counsel for the Petitioner: Mr.SSN.Moorthy

**Counsel for respondent No.1: Mr.B.Narayana Reddy,
Asst. Solicitor General**

Counsel for respondent No.2: Mrs.V.Dyumani

The Court made the following:



Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed assailing the possession notice, dated -08-2016, issued by respondent No.2 under Rule 8 of the Security Interest (Enforcement) Rules, 2002.

The petitioner is a third party, who averred that he has purchased the subject property from its original owner-T.Satyanarayana and that as respondent No.3 and another person *viz.*, M.Jagadish Gowd claimed that they have purchased the property from one P.V.Bhaskar Rao, the petitioner filed OS.No.1916 of 2006 on the file of the I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, for declaration of his title and permanent injunction; that by judgment and decree, dated 08-08-2013, the Civil Court has decreed the suit; and that the said judgment has attained finality.

The grievance of the petitioner is that respondent No.2 has issued the possession notice and got it pasted on the premises of the subject property and that his enquiries revealed that respondent Nos.3 to 5 have played fraud, created a sale deed over the subject property and obtained loan from respondent No.2 by mortgaging the same. In support of his plea that he is the lawful owner of the subject property, the

petitioner has filed a copy of judgment and decree, dated 08-08-2013, in OS.No.1916 of 2006.

Mrs.M.Dyumani, learned Standing Counsel for respondent No.2- Bank of India, did not dispute the authenticity of the afore-mentioned judgment.

However, as the disputes raised by the petitioner pertain to the genuineness or otherwise of the document of title set up by respondent Nos.3 to 5 and the legality or otherwise of the mortgage of the subject property claimed by respondent No.2, the same cannot be adjudicated by this Court under Article 226 of the Constitution of India. Instead, the petitioner is relegated to the remedy of appeal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. However, to facilitate the petitioner to avail appropriate interim relief in the appeal, respondent No.2 is directed not to take coercive steps for a period of two months. In the meantime, the petitioner shall be free to approach the Debt Recovery Tribunal for appropriate reliefs.

The Writ Petition is, accordingly, disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.37763 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 14th September, 2016
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