

**THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

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WRIT PETITION No.39276 OF 2015
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ORDER: (Per Hon'ble Sri Justice R. Subhash Reddy)

This Writ Petition is filed seeking to declare the action of respondent Nos.1 and 4 in taking possession of the house property bearing No.1-5-1055/33, Plot Nos.32/part and 33/part covered by Survey No.593 situated at Father Balaiah Nagar Colony, Old Alwal Village, Malkajgiri Mandal, Ranga Reddy District, pursuant to the measures taken under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act'), as illegal and arbitrary.

Respondent Nos.2 and 3 are the owners of the property in question and by mortgaging the same, they have availed loan facility from respondent No.1. In view of the default committed by them in repaying the loan amount, respondent No.1 has taken measures under the Act and it is stated that an Advocate Commissioner was appointed pursuant to the order passed under Section 14 of the Act by the Chief Metropolitan Magistrate, Cyberabad, and possession of the property in question was taken.

In this Writ Petition, petitioner, who claims to have

purchased the property in question for a sum of Rs.27,23,000/- from respondent Nos.2 and 3 by registered sale deed, dated 20.11.2014, is questioning the action of respondent No.1 in taking possession of the property in question, but at the same time, respondent Nos.2 and 3 have filed an undertaking accepting the sale in favour of the petitioner and they also pleaded that they will clear the outstanding amount.

Learned counsel appearing for respondent No.1 submitted that as on 25.01.2016, an amount of Rs.53,60,836.37 ps. is due, but the same is disputed by respondent Nos.2 and 3 and the petitioner. It is submitted that on 27.10.2014, respondent No.1 has issued a letter in respect of loan Account No.17064402238 stating that the total outstanding amount is only Rs.18,36,029/-.

If there is any dispute with regard to the calculations, it is for the petitioner and respondent Nos.2 and 3 to approach respondent No.1. In the absence of correct data before this Court, it is not possible to arrive at the exact outstanding amount in the loan account of respondent Nos.2 and 3.

As it is stated that respondent Nos.2 and 3 have undertaken to clear the loan account by repaying the outstanding amount, we deem it appropriate to dispose of this Writ Petition by directing respondent Nos.2 and 3 and

the petitioner to approach respondent No.1 to settle the account. Further, while calculating the outstanding amount, we are sure that respondent No.1 will consider the letter, dated 27.10.2014, issued to respondent Nos.2 and 3. On arriving at the total amount due as on today, the petitioner and respondent Nos.2 and 3 shall clear the same within a period of two months from today. Till such period, no further steps shall be taken to sell the property in question. It is made clear that on repaying the outstanding amount and with the consent of respondent Nos.2 and 3, it is open to respondent No.1 to return all the documents belonging to the property in question to the petitioner.

Subject to the above, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. No costs.

REDDY, J

R. SUBHASH

NARAYANA, J
January 27, 2016
MD

A. SHANKAR