

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.19792 of 2016

Date: 12.09.2016

Between:

Seepana Lakshmana Murthy,
Srikakulam District.

.. Petitioner

and

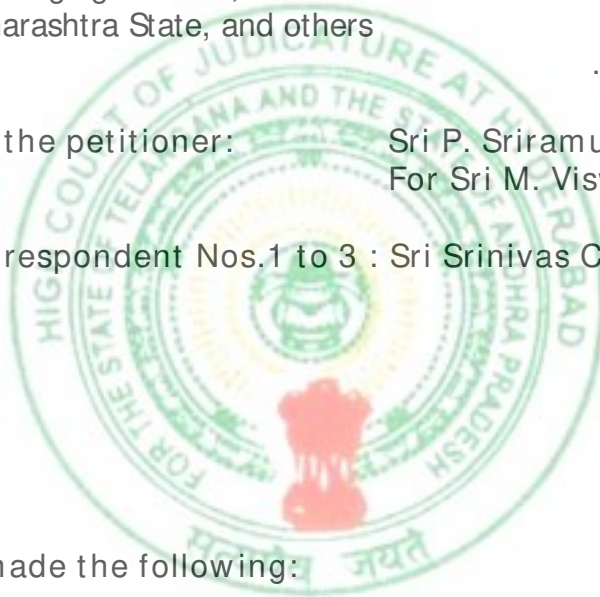
Bank of Baroda,
Rep. by its Managing Director,
Mumbai, Maharashtra State, and others

.. Respondents

Counsel for the petitioner: Sri P. Sriramulu Reddy
For Sri M. Viswanadham

Counsel for respondent Nos.1 to 3 : Sri Srinivas Chitturu

The Court made the following:



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

This writ petition is filed for the following substantive relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent bank in issuing the paper publication in Andhra Jyothi dt. 12.5.2016 under Sec. 13(4) of the said Act, proposing to auction the property i.e., plot No.411 admeasuring 352 sq. yards situated in Sy. No.100/5, (LP No.577/1983) of Fazalbaghpeta, P.S. Colony, Srikakulam District, to be held on 23.6.2016, as being illegal, arbitrary and in violation of principles of natural justice and contrary to Rule 8(5) of the Security Interest (Enforcement) Rules, 2002, and consequently direct the respondent not to conduct auction in so far as the said property of the petitioner is concerned and pass such other order or orders may deem fit and proper in the circumstances of the case.”

On 21.06.2016, while ordering notice before admission, a Division Bench of this Court has passed the following order in W.P.M.P.No.24313 of 2016:

“As the petitioner states that he is in possession of the residential property which is now proposed to be put to sale owing to the mortgage created by him in the capacity of a guarantor for the loan, the respondent bank is permitted to proceed with the auction proposed to be held on 23.06.2016 but the sale, if any, shall not be confirmed for a period of four weeks thereafter i.e. before 23.07.2016. The respondent bank shall only collect 25% of the bid amount from the auction purchaser, if any, and shall not collect the balance amount till the expiry of the time stipulated by this Court for confirming the sale. In the event the petitioner clears the entire outstanding dues of the respondent bank before 23.07.2016,

the sale shall not be confirmed and the factum of the deposit made by the petitioner shall be reported to this Court.”

At the hearing, Sri Srinivas Chitturu, learned Standing Counsel for respondent No.1- Bank, on instructions, submitted that as the petitioner failed to pay the entire outstanding dues of the bank before 23.07.2016 as directed by this Court, the sale was confirmed in favour of the highest bidder.

In view of this subsequent event, the writ petition has become infructuous. If the petitioner feels aggrieved by the subsequent events leading to conduct and confirmation of sale, he shall be free to avail appropriate remedy available to him in law.

Subject to the liberty given to the petitioner as above, the writ petition is dismissed.

As a sequel, interim order dated 21.06.2016 is vacated and W.P.M.P.Nos.24313, 27571 and 29522 of 2016 are disposed of as infructuous.

(C.V.NAGARJUNA REDDY, J)

(G. SHYAM PRASAD, J)

Date: 12.09.2016
va