

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WP No.18109 of 2012

ORDER::

The writ petition is filed aggrieved by the action of the 2nd respondent-Joint Sub Registrar-I, Proddatur, Kadapa District, in refusing to register the sale certificate issued by the petitioner-HDFC Bank Limited in favour of the purchaser.

2. The case of the petitioner-Bank is that M/s.Proddatur Oils Private Limited had availed cash credit facilities to the tune of Rs.80 lacs from the petitioner in the year 2008 and eventually became non-performing asset and, therefore, proceedings under the provisions of the SARFAESI Act, 2002, were initiated and the Bank took physical possession of the mortgaged property, by following due process, the mortgaged property was put to sale and sale certificate was issued in favour of the purchaser. The grievance of the petitioner is that when the sale certificate was presented for registration before the 2nd respondent, registration was refused purportedly on the ground that there is a subsisting order of the civil Court to maintain status-quo passed in IA No.3304 of 2010 in OS No.196 of 2010 by the learned I Addl. Chief Judge, City Civil Court, Secunderabad. The petitioner contends that Bank is not a party to the civil proceedings in OS No.196 of 2010 and any

orders passed therein is an order in ***personum*** and not an order in ***rem*** and hence not binding on it. That the State of Andhra Pradesh nor the Sub-Registrar, Proddatur were made as parties to the said suit OS No.196 of 2010 and on that count also the status-quo order does not bind the Bank.

3. Heard the learned counsel for the parties. This Court by order dated 19-06-2012 granted interim order directing the 2nd respondent to register the sale certificate while observing that it shall not effect the rights of the persons, who are not parties to the transaction, and it shall be subject to the further orders that may be passed in the writ petition.

4. Inasmuch as the relief sought in this writ petition is only with regard to the in-action on the part of the 2nd respondent in registering the sale certificate and that grievance of the petitioner stand redressed by virtue of the interim order passed by this Court, nothing survives for adjudication in this writ petition and, therefore, the writ petition is disposed of making the interim order as final order in the writ petition.

5. However, it is now stated by learned counsel for the 3rd respondent that the appeal in SA No.281 of 2012 filed before the Debt Recovery Tribunal, Hyderabad, challenging the sale certificated issued by the petitioner-Bank is not being disposed

of on the ground that the writ petition is pending. It is seen that the appeal said to have been filed by the 3rd respondent against the sale certificate is a statutory appeal and pendency of the writ petition may not come in the way of the DRT, Hyderabad to dispose of the appeal. In any case, now that the writ petition is disposed of, the appeal said to have been filed by the 3rd respondent can be disposed of in accordance with law, uninfluenced by any of the observations made hereinabove. Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.

A.RAJASHEKER

REDDY, J

Dated : 17-03-2016
NRG

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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