THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2396 OF 2016

O R D E R

This civil revision petition under Article 227 of the Constitution arises out of the order dated 11.02.2016 passed by the learned XIV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.198 of 2014 in O.S.No.495 of 2010. The said I.A. was filed by the defendant bank, the 1st respondent herein, under Order 1 Rule 10 CPC seeking to implead respondents 2 to 5 herein as parties to the suit. By the order under revision, the trial Court allowed their impleadment. Aggrieved thereby, the plaintiff in the suit is before this Court.

By order dated 03.06.2016, this Court granted interim stay of further proceedings in the suit while ordering notice to the respondents. Despite service being effected, the 1st respondent-defendant bank did not choose to enter appearance before this Court, either in person or through counsel.

Heard Sri M.Ravinder Reddy, learned counsel for the petitioner-plaintiff, and Sri Y.S.Venkat Rao, learned counsel for respondents 2 to 5.

The suit, O.S.No.495 of 2010, was filed by the petitioner-plaintiff for payment of a sum of Rs.1,65,97,206/- with interest from the 1st respondent-defendant, the Union Bank of India, on the ground that the petitioner-plaintiff, despite being declared the highest bidder in the auction sale held by the 1st respondent-defendant bank, was not delivered the property sold owing to third party claims. The petitioner-plaintiff therefore sought refund of the sale consideration paid by him along with interest. By way of the subject I.A., the 1st respondent-defendant bank sought to implead the borrowers, respondents 2 to 5 herein, who had mortgaged the subject property as security for the loan facilities availed by them. Accepting this plea, the trial Court observed that adding the proposed defendants, respondents 2 to 5 herein, would facilitate effectual and complete adjudication and settlement of all the questions involved in the suit and that they were therefore necessary parties.

As rightly pointed out by both the learned counsel, the trial Court did not even order notice to the proposed defendants, respondents 2 to 5 herein, before impleading them as parties to the suit. Apart from this procedural lapse, the trial Court also lost sight of the fact that Section 34 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 (*hereinafter,* 'the Act of 2002') bars the jurisdiction of the civil Court in relation to any matter falling within the scope of the said Act. The nature of the transaction between the proposed parties, respondents 2 to 5 herein, and the 1st respondent-defendant bank, including the mortgage of properties in relation thereto, would be covered by the statutory bar to the civil Court's jurisdiction under Section 34 of the Act of 2002. Thus, the question of the trial Court undertaking effectual and complete adjudication in relation to such issues did not arise at all. The scope of the suit was only with regard to the claim for return of the sale consideration owing to the alleged failure of the auction sale. This aspect of the matter would not be covered by Section 34 of the Act of 2002 and was therefore within the domain of the trial Court. The scope of such claim could not be enlarged by bringing in issues squarely falling within the ambit of the Act of 2002. The order of the trial Court under revision is therefore unsustainable in law and is accordingly set aside.

The civil revision petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

12th AUGUST, 2016

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