

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

[Special Original Jurisdiction]

THURSDAY THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND SIXTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 5723 OF 2008

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Between:

Musullapalli Narendra Phani Kumar ... Petitioner

V/s.

The Prakasam District Co-operative
Central Bank Limited,
Represented by its Registrar &
Special Officer, Ongole & Ors. ... Respondents

Counsel for the Petitioner : Sri M. Subba Reddy

Counsel for the Respondents: Smt.Chintalapudi
Lakshmikumari

Sri R. Prasad
Sri R.V.Nagabhushan Rao
Sri N. Subba Rao

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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WRIT PETITION NO. 5723 OF 2008
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ORDER:

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Heard Sri M. Subba Reddy for Petitioner, Sri N.Subba
Rao and Sri Nagabhushan Rao for contesting respondents.

2. The petitioner challenges notice under Rule 52 [14] [iii] of
APCS Rules in EP.No. 872 of 2003-2004 dated 14/12/2007.
Through the impugned notice following properties are brought to
sale :

Schedule of Immovable Property

Lot No.	Survey No.	Extent		Boundaries
		Acs	Hectares	
6	606	4/14	1.660	East:Jammigumpala Ramaiah South:Jammigumpala Ramaiah West: Road N o r t h Chatla Samyelu

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Schedule of Immovable Property

Lot No.	Survey No.	Extent	Extent	Boundaries
-	-	<u>Acs</u>	<u>Hectares</u>	-
1	556/1	2.31	0.924	East:Vaddepalli chenciaiah South N.Rajulaiah West Jammigumpat Ankaiah North:N.Rami Reddy
<u>2</u>	554	1.34	0.552	East N.China Ramaiah South: B.Chinakotaiah West: Village Satram North Public Road
3	563/1	0.32	0.129	East: Jammigumpala Lingaiah South: JP Kotaiah West: Nusullapalli Rajulaiah North: G.Vengaiah
4 -	563/6	0.75	0.303	East & North: Nusullapalli Rajulaiah South :Road West J.G.Balaiah
5	565/1	3.00	1.212	East: Nusullapalli Rajulaiah South: Road West N.Rajulaiah North: Vatlamudi Vengaiah
9	665/3	3.74	1.510	Full
10	563/3	0.23	0.0992	Full

11	633/3	2.50	1.010	Full
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3. The petitioner prays for declaring the impugned proceedings dated 14/12/2007 confirming the sale of properties referred to above without awaiting the final outcome of the suit in OS.No. 24 of 2004 on the file of Senior Civil Judge, Markapur and not entertaining a claim petition under Rule 52, sub-rule 21 of A.P.C.S. Rules, 1964 as illegal and unconstitutional.

4. The averments briefly stated are that:

The properties referred to above are stated to belong to grand father [late Chinna Nagaiah] of the writ petitioner and father of fourth respondent. It is the case of the petitioner that on 26/11/1999 Chinna Nagaiah executed unregistered will in favour of petitioner and the fifth respondent. On 09/4/1985 Chinnaiah Nagaiah died and thereafter the petitioner claims right and title to these properties. Coming to the objection of the petitioner, it is stated that on 23/1/1995 and 05/2/1997 under two registered mortgage deeds, the fourth respondent mortgaged the properties in favour of Pedda Dornala Primary Agricultural Co-operative Society/ sixth respondent. On account of default in payment, a dispute was raised, award was passed and EP.No.872/2003-2004

was filed by the sixth respondent for realization of decretal amount. The properties were auctioned. Respondents 6 and 7 are the successful bidders and the sale was confirmed in their favour. The petitioner complains that, if the suit in OS.No.24 of 2004 terminates in his favour the sale conducted by sixth respondent to the extent of share the petitioner gets in the adjudication has to be excluded and no title can be conveyed to the auction purchasers.

5. Sri Nagabhushana Rao by placing on record the judgment and decree in AS.No. 25 of 2009 and SA.No. 1032 of 2012 contends that the petitioner firstly is not successful in getting his right declared by the competent court. The dismissal of AS.No. 25 of 2009 in so far as sixth respondent herein is concerned has become final and by reference to the compromise decree passed by this Court in SAMP.No. 1986 of 2015 no right can be claimed against the society/sixth respondent.

6. I have perused the judgment of the appellate court in AS.No. 25 of 2009 and the compromise decree in SAMP.No. 1986 of 2015. The fact that the suit is not pressed against sixth respondent and the passing of compromise decree thereafter does not enure any additional benefit in favour of the petitioner than

what is already rejected by appellate court and trial court. Having regard to the subsequent development, I see no reason to interfere with the impugned proceedings.

7. The writ petition fails and accordingly is dismissed. No costs.

8. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT

17/03/2016
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HONOURABLE SRI JUSTICE S.V. BHATT

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Circulation No.
Court Master: I s L