

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

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

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.21945 OF 2016

DATED: 13-10-2016

M/s. Anjana Constructions,
Rep. by its Proprietor, Mr. D. Vara Prasad.
S/o. Venkateswarlu, Aged 40 years,
R/o.5-5-7/9 & 10, Flat No.301,
Susheela Towers, Sangeetha Nagar,
Kukatpally, Hyderabad.

--- Petitioner.

And

Union Bank of India,
Rep. by its General Manager,
Local Head Office, Bank Street,
Koti, Hyderabad and thirty others.

--- Respondents.

Counsel for the petitioner : Mr. T.S. Rayulu.

Counsel for the respondent Nos.1 & 2 : Mr. B.S. Prasad.

Counsel for the respondent Nos.3 to 31 : --

This 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, the Hon'ble Court may be pleased to issue an appropriate Writ, order or direction, particularly in the nature of a Writ of Mandamus, by declaring the action of the respondents 1 and 2 in conducting auction of the houses of respondents 3 to 31, without taking delivery of possession, without paying dues for the houses constructed by the petitioner, by misusing the SARFAESI Act, as illegal and arbitrary and consequently direct the respondents to arrange payment of the dues for the 29 houses as shown in the Exhibits, to the petitioner, and pass such other and further orders to meet the ends of justice.”

After arguing the case, Mr. T.S. Rayulu, learned counsel for the petitioner, requested for permission of the Court to withdraw the Writ Petition, with liberty to his client to avail the remedy under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (For short, 'the SARFAESI Act'). Mr. Maruthi Jadhav, learned counsel, representing Mr. B.S. Prasad, learned counsel for respondent Nos.1 and 2, submitted that while his client has no objection for unconditional withdrawal of the Writ Petition, it is opposed to the petitioner availing remedy under Section 17, as it has no locus to question the sale held by respondent Nos.1 and 2, in the absence of any privity of contract between the petitioner and respondent Nos.1 and 2.

The question whether the petitioner has locus, to question the sale of the houses belonging to respondent Nos.3 to 31, need not be decided in this Writ Petition. The petitioner is entitled to invoke Section 17 of the SARFAESI Act, subject to its locus to avail such remedy, and also the maintainability of the appeal under the said provision. Respondent Nos.1

and 2 are entitled to raise all legally sustainable objections including the one relating to the entitlement of the petitioner to avail such remedy.

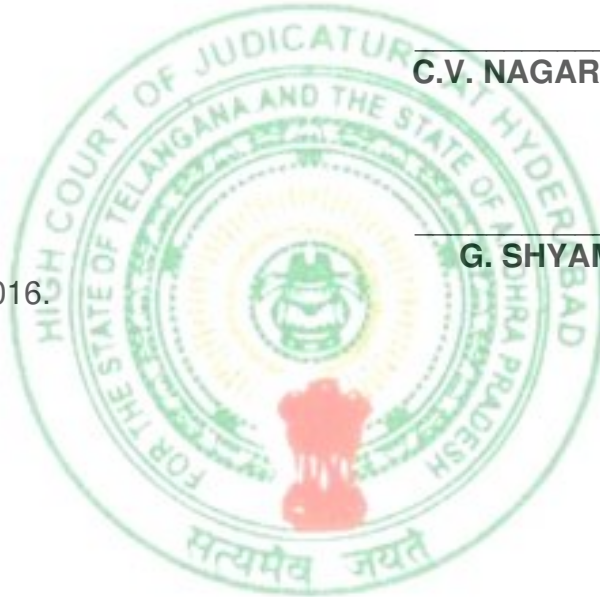
Subject to the liberty given to the petitioner, as above, and the right of respondent Nos.1 and 2 to oppose the proceedings, if and when initiated by the petitioner, under Section 17 of the SARFAESI Act, the Writ Petition is dismissed as withdrawn.

As a sequel to dismissal of the Writ Petition, W.P.M.P. No.26960 of 2016, shall stand dismissed as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

Date: 13-10-2016.
Dsh



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WRIT PETITION No.21945 OF 2016

(Order of the Division Bench delivered by
Hon'ble Sri Justice C.V. Nagarjuna Reddy)

Date. 13-10-2016

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