

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

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.29173 of 2016

Dated 31st August, 2016

Between:

M/s. Agri Gold Projects Ltd.,

.....Petitioner

And

Andhra Bank, rep.by its Assistant General Manager & Authorised
Officer, Labbipeta Branch, M.G.Road, Vijayawada, Krishna District,
Andhra Pradesh

.....Respondent

Counsel for the petitioner: Smt.S.Nanda
for Ms.Thota Suneetha

Counsel for the Respondent: ---

The Court made the following:

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

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THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.29173 of 2016

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

The e-auction notice, dated 28.07.2016, issued by the respondent for sale of registered office building of the petitioner for recovery of loan amount under mortgage is questioned in this writ petition.

The only point argued by Smt.S.Nanda, learned counsel for the petitioner, is that the proposed sale is contrary to order, dated 03.09.2015, in PIL.No.193 of 2015. She has placed reliance on the following portion of the said order:

“We have also perused the list of the properties which have already been attached, as reflected in G.O.Ms.No.23, dated 20.02.2015 and G.O.Ms.No.73, dated 05.06.2015. It is made clear that if respondent No.7 or its subsidiary companies have any other properties which are not covered by these two GOs, they shall either not create any third party rights/interest in those properties or shall alienate the same until further orders of this Court.”

The learned counsel argued that respondent No.7 in the PIL is restrained from either creating any third party rights or interests in the properties which are not covered by G.O.Ms.No.23, dated 20.02.2015 and G.O.Ms.No.73, dated 05.06.2015, or alienating the same until further orders and submitted that the proposed alienation of the subject property which is not covered by the aforementioned two GOs is contrary to the above order of the Division Bench.

We are afraid, we cannot accept this submission of the learned counsel. A perusal of the above-mentioned order of the Division Bench shows that no injunction has been granted to a third party to the PIL, such as the respondent, from exercising its statutory/contractual rights for realising the loan advanced to the petitioner. It is only the petitioner which was restrained from creating third party rights or interests or alienating the properties. It is not the pleaded case of the petitioner that it has mortgaged the subject property to the respondent after the order was passed in the PIL. The proposed sale is not by the petitioner but by the respondent.

In the light of these undisputed facts, the above noted order in the PIL does not in any manner prevent the respondent from selling the subject property in exercise of its right under the contract as well as the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

For the above mentioned reasons, we do not find any merit in this writ petition and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, WP.MP.No.36131 of 2016 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

31st August, 2016
VGB