

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Petition No.8297 of 2017

Order: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The relief sought for in this writ petition is to declare the 'E' auction notice dated 2.3.2017 issued by the respondent-bank, for the petitioner's property admeasuring 123.60 square yards of residential property consisting of five floors in Kakarlavari Street, Nellore, as arbitrary and illegal. The petitioner's contention is that, while the third respondent had already paid a part amount of Rs.1.00 crore to the bank, the respondent-bank was proceeding to put the subject property to sale.

Sri B.S. Prasad, learned counsel for the respondent-bank, has placed before us a copy of the order passed by a Division Bench of this Court in W.P. No. 18818 of 2016 dated 15.6.2016 wherein the petitioner herein is arrayed as the second petitioner. The said writ petition (W.P. No. 18818 of 2016) was disposed of directing the petitioners to pay Rs.1.00 crore within one month from the date of receipt of a copy of the order and the balance outstanding dues as quantified by the respondent-bank within one month thereafter. It was made clear that, in the event the petitioners failed to make either of the aforestated deposits, it was open to the respondent-bank to proceed with the matter in accordance with law. The bank was restrained from taking further steps, pursuant to the possession notice, for a period of one month from the date of receipt of a copy of the order to enable the petitioners to prove their bonafides by making their first payment. The Division Bench made it clear that, in the event the petitioners made such payment, the respondent-bank should desist from taking coercive steps for a period of another month thereafter; no further extension of time would be granted for making the aforestated deposits; and the bank would be at liberty to proceed in accordance with law, in the event the petitioners commit any

default, be it in the payment of the first instalment or the second instalment.

Though the petitioner herein was the second petitioner in W.P. No. 18818 of 2016, she has filed the present writ petition suppressing the fact that she had filed W.P. No. 18818 of 2016, along with the 3rd respondent herein, earlier.

Sri B.S. Prasad, learned counsel for the respondent-bank, would submit that facts have also been mis-represented, and the petitioner has committed perjury as her claim of the third respondent having made part payment in excess of Rs.1 crore is false. We do not see any reason to examine the second contention, without an affidavit being filed on behalf of the respondents. We are satisfied, however, that the writ petition is liable to be dismissed with exemplary costs as the petitioner herein has suppressed the fact that she had filed W.P. No. 18818 of 2016 along with the third respondent earlier. This Court would not come to the aid of those who abuse the process of Court suppressing material and relevant facts.

The writ petition is, therefore, dismissed with exemplary costs of Rs.25,000/- (Rupees Twenty Five Thousand Only) which the petitioner shall pay to respondent Nos. 1 and 2 within one month from today, failing which it is open to respondent Nos. 1 and 2 to recover the said amount in accordance with law. Miscellaneous Petitions pending, if any, shall also stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

23rd March, 2017

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Date: 23.3.2017

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