

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

WRIT PETITION No.16783 of 2017

ORDER: (per SK,J)

Sri K.Ramakrishna, learned counsel for the petitioners, would state that he entered appearance only yesterday and would seek time to respond to the set aside petition filed by the respondent bank in WPMP No.21824 of 2017 in WPMP No.20397 of 2017 in WP No.16783 of 2017. However, we are not inclined to adjourn the matter on this ground.

The prayer in this writ petition reads as under:

‘Hence, it is prayed that this Court may be pleased to pass an order or orders one in the nature of WRIT OF MANDAMUS by declaring the action of respondent No.2 for not passing an order of re-delivering of property bearing No. 16-11-476/45, admeasuring 120 sq. yards, situated at Indira nagar, Moosarambagh, Hyderabad in favour of petitioners irrespective of filing an application for re-delivery of possession in I.A.No. 1198/2017 in S.A. No. 207/2017 which is filed on 28-04-2017 and posted the matter on 08-05-2017, in view of the pendency of the comprehensive suit for partition and separate possession and other reliefs between the parties herein, in O.S. No. 107/15 on the file of XXV Addl. Chief Judge, City Civil Court, Hyderabad., action of the respondents are totally illegal, arbitrary against the principles of natural justice against the provision of Sarfaesi Act and also against the provisions of Article 300-A of Constitution of India.’

while the interim prayer in W.P.M.P.No.20597 of 2017 filed in this writ petition reads as under:

‘For the reasons stated in the accompany affidavit, it is prayed that this Court may be pleased to direct the respondent No.1 to redeliver the petition schedule property bearing No.16-11-476/45, admeasuring 120 square yards situated at Indira Nagar, Moosarambagh, Hyderabad, to the petitioner herein pending disposal of the writ petition.’

It is therefore clear that the interim prayer exceeded the main prayer inasmuch as the grievance in the writ petition was with regard to the alleged inaction on the part of the Debts Recovery Tribunal, Hyderabad, in passing orders in I.A.No.1198 of 2017 in S.A.No.207 of 2017. That being so, at best, the petitioners could have only asked for a direction to the Debts Recovery

Tribunal, Hyderabad, to pass an order in the said I.A. and not to seek redelivery of the possession straight away which would have the effect of making I.A.No.1198 of 2017 in S.A.No.207 of 2017 pending before the Debts Recovery Tribunal, Hyderabad, redundant and infructuous.

That apart, Smt. V.Dyumani, learned counsel for the respondent bank, would bring it our notice that the Debts Recovery Tribunal, Hyderabad, dismissed I.A.No.1198 of 2017 filed by the petitioners in S.A.No.207 of 2017 seeking redelivery of possession.

That being so, the cause in this writ petition no longer survives and it is accordingly dismissed. The interim order dated 11.05.2017 directing redelivery of possession to the petitioners shall stand vacated. The amount deposited by the petitioners pursuant to the aforesaid order shall be taken into account and given due credit by the Debts Recovery Tribunal, Hyderabad, in the pending S.A.No.207 of 2017. This order shall however not preclude the petitioners from availing appropriate statutory legal remedies against the dismissal of I.A.No.1198 of 2017 in S.A.No.207 of 2017 by the Debts Recovery Tribunal, Hyderabad.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

GUDISEVA SHYAM PRASAD,J

Date:07.06.2017

PGS