

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.43070 of 2016

Order:

The party-in-person is absent when the case is called.

As per the averments made in the affidavit filed in support of the writ petition the first petitioner is a registered owner of Plot No.53/Part (western side portion) admeasuring 200 sq. yards out of 300 sq. yards in Survey Nos.193 part and 195 part, block No.6, Jeedimetla village, Qutbullahpur Mandal, R.R. District, having purchased the same under a registered sale deed dated 24.10.2013. He availed a loan from the fourth respondent on 04.06.2014 for an amount of Rs.10,53,532/- and mortgaged the property. An amount of Rs.20,00,000/- was sanctioned, out of which the fourth respondent initially released an amount of Rs.10,53,532/-. After release of the said amount, the ground floor and slab was completed. Thereafter, the first petitioner could not complete the construction due to lack of finances. It appears that the fourth respondent obtained an order from the concerned Magistrate in CrI.M.P.No.437 of 2016 and seized the property in exercise of the powers under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. He also states that earlier he filed W.P.No.4429 of 2016 and as per the directions in the said case he paid an amount of Rs.3,00,000/- on 08.08.2016 and he filed another W.P.No.41005 of 2016 and this Court passed an order on 05.11.2016 granting interim stay on condition of the petitioner clearing the arrears of past instalments within three months. The petitioner did not state anything with regard to clearance of earlier installments, but stated that he made a complaint on 21.06.2016 at Petbasheerbagh Police Station and

the same was registered as Crime No.585 of 2016 and filed the present Writ Petition to register a case against the fourth respondent under criminal breach of trust and cheating.

The third respondent filed a counter stating that the petitioners lodged a complaint on 22.05.2016 stating that one D. Syam Kumar Reddy and Sunil Sankar belonging to DCB Bank came to their property and quarreled with them. It was also stated that on 13.06.2016 the same persons came there along with the Court Commissioner and seized the complainant's house property. The said complaint was sent to the XV Metropolitan Magistrate, Medchal and necessary permission was obtained for investigation of the case under non-cognizable offence and accordingly Crime No.585 of 2016 was registered and the same is under investigation.

In view of pendency of the matter before the third respondent, this Court is not inclined to entertain the present Writ Petition. But, however, liberty is given to the petitioners to take appropriate legal proceedings in accordance with law, if they are still aggrieved with the investigation. Since the matter is under investigation, no writ can be issued against the third respondent for proceeding in a particular manner.

In view of the registration of crime and investigation, the Writ Petition is closed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 17.01.2017
Nsr