

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

WRIT PETITION No.7704 of 2017

ORDER: (per SK,J)

This writ petition was filed with the following prayer:

'For the reasons stated in the accompanying affidavit, it is hereby prayed that this Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the, first respondent in issuing the Notice bearing No.Retail- SME/Hyd-Legal/FY16-17/204 dated 03-02-2017, described as Auction-cum-Sale of the secured asset belonging to the Petitioners herein, ostensibly for bringing to sale of the open land bearing Plot No.12, Block No.44, admeasuring 2380 sq.yards forming part of Sy.Nos.65 (P), 66,67, 68, 69 (P), 70, 71 (P), 72, 73, 74 (P), 466, 467, 468, 469, 470(P), 471, 472 (P), 474 (P), 475 (P), Lahari Green Park Resorts, Kondakal Village, Shankarpally Mandal, Ranga Reddy District, through public auction by fixing the date of sale as 07-03-2017 as illegal, arbitrary, without jurisdiction, violative of principles of natural justice, in violation of the mandatory procedural requirements under Rule 8 of the Security Interest (Enforcement) Rules, 2002 and violative of the fundamental rights under Articles 14, 21 and 19 (1) (g) and the constitutional right to hold the property under Article 300-A of the Constitution of India.'

It is however admitted by Sri M.R.K.Chakravarthy, learned counsel for the petitioners, that the petitioners already approached the Debts Recovery Tribunal, Hyderabad, by way of S.A.No.604 of 2013 instituted under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

That being so, we are of the opinion that it is not open to the petitioners to parallelly pursue two remedies. All issues in relation to the proceedings initiated under the SARFAESI Act can be addressed by the petitioners before the Tribunal itself.

Leaving it open to the petitioners to do so, this writ petition is dismissed. In the event the grievance raised in this writ petition is sought to be addressed before the Tribunal, the same shall be adjudicated on its own merits and in accordance with law.

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

JUSTICE SANJAY KUMAR

JUSTICE GUDI SEVA SHYAM PRASAD

Date:16.06.2017
GJ

