

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.26464 OF 2008

ORDER:

Despite service of notice on respondent Nos.1 and 2 neither has any counsel entered appearance on their behalf nor has a counter affidavit been filed by them.

The relief sought for in this Writ Petition is to set aside the auction notice dated 03.11.2008 issued by the first respondent for sale of Flat No.3 in the first floor of Pearls Apartments with Municipal No.29-1387, Plot No.182, Kakateeya Nagar, Neredmet, Malkajgiri, Ranga Reddy District, declaring the same as arbitrary and illegal.

By order in WP.MP.No.34636 of 2008 dated 04.12.2008, this Court granted interim stay of the auction to be held by the first respondent vide notice dated 03.11.2008 allowing the petitioners to organise and arrange payment to clear the loan amount pending disposal of the Writ Petition on condition that the petitioners deposit Rs.1.00 lakh.

Dr. Y.Padmavathi, learned counsel for the petitioners, expressed ignorance as to whether the petitioners had organised and arranged payment to clear the loan amount in terms of the interim prayer sought for by them.

In any event as the auction notice dated 03.11.2008 stipulated the auction date as 05.12.2008 at 3 PM, and as the auction could not be held in view of the interim order, the respondent-Bank is now required to issue a auction notice afresh in case they intend putting the subject property to sale under the SARFAESI Act. As no auction was held on 05.12.2008, it is

evident that the cause in this Writ Petition does not survive. Suffice it to make it clear that, in case the respondent-Bank proceeds to auction the property and issues an auction notice afresh, it is open to the petitioner to avail their legal remedies in accordance with law.

Subject to the aforesaid observations, the Writ Petition fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

9th June 2017
RRB

