

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.27010 of 2009

ORDER:

The petitioner had the benefit of an interim order for the past more than seven years. It is not in dispute that the property, which was sought to be put to auction, was mortgaged by the petitioner on obtaining a loan from the 3rd respondent-Society.

Sri N.Aswartha Narayana, Learned Counsel for the petitioner, would submit that an auction notice was issued without issuing a demand notice prior thereto. When I asked him whether the loan amount was repaid, Learned Counsel would fairly state that it is not. Having obtained a loan, on mortgaging the subject house, the petitioner cannot avoid payment and simultaneously contend that the subject house should not be put to auction.

Sri N.Aswartha Narayana, Learned Counsel for the petitioner, requests that the petitioner be granted six months time to repay the entire dues. Any such request can only be made to the third respondent for this Court, in judicial review proceedings under Article 226 of the Constitution of India, would not regulate the mode and manner of payment of the amounts due to the third respondent by the petitioner herein.

Leaving it open to the petitioner to approach the third respondent seeking re-schedulement of their debt, and for grant of time to pay the amounts due in its entirety, the Writ Petition fails and is, accordingly, dismissed. It is made clear that the interim order passed earlier in this Writ Petition would not survive after dismissal of the Writ Petition. It is open to the third respondent to put the subject property to sale, for recovery of its dues from the petitioner,

in accordance with law. The Miscellaneous Petitions pending, if any, shall also stand dismissed. No order as to costs.

RAMESH RANGANATHAN, ACJ.

Date:06.10.2017.

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