

HON' BLE SRI JUSTICE S.V. BHATT

Writ Petition No.39068 of 2012

ORDER:

Heard Mr. A.Chandraiah Naidu for petitioner, Mr. Satyanarayana holding for Mr. Srinivas Polavarapu for respondents 1 and 2 and the Assistant Government Pleader for Cooperation.

2. The petitioner challenges the sale certificate No.93/ 2011-2011 dated 09.07.2010 of 1st respondent and EP No.94 of 2012-13, as null and void.

3. This court directed production of record of subject matter of the writ petition by 1st respondent. The record is produced. Counsel for the petitioner is also permitted to go through the record.

4. This court on 19.12.2012, granted stay of all further proceedings taken up pursuant to sale certificate impugned in the writ petition. There is dispute between the parties on complying with the condition. While moulding the relief, this court proposes to deal with this objection.

5. The objection against the writ prayer is both on maintainability of writ petition and also on merits pleaded by petitioner. Mr. Chandraiah Naidu, after going through the record, submits that a few facts are to be examined by the Appellate forum and opportunity may be granted to petitioner to avail remedy of appeal within four weeks from today. For availing the remedy of appeal, counsel for respondents 1 and 2 does not seriously oppose, however, contends that petitioner is a defaulter by choice and has not complied with the conditions imposed by the court and prays on leaving it open to Society to recover the amount. Mr.

Chandraiah Naidu, however, submits that according to his instructions, the condition has been complied with, but, not within the time stipulated by this court.

6. Be that as it may, perusal of record produced by 1st respondent discloses that remedy of appeal is more appropriate and suitable for examining the grounds raised by petitioner. By accepting the request of Mr. Chandraiah Naidu, the writ petition is disposed of by this order.

(a) The petitioner is given liberty to file appeal against the sale certificate and/ or before the Cooperative Tribunal, Vijayawada, within four weeks from today by enclosing a copy of this order.

(b) The interim order granted by this court is extended by 12 (twelve) more weeks from today, subject to petitioner depositing a sum of Rs.50,000/- (Rupees fifty thousand only), within eight (8) weeks from today with the 3rd respondent bank. In case of default of complying with this condition, the Tribunal is directed not to consider the stay application filed by petitioner till petitioner deposits the entire amount outstanding as on that date.

(c) The petitioner if deposits Rs.50,000/- within the time granted by this order, the Tribunal considers the stay application of petitioner in pending appeal and passes orders by imposing further conditions as are deemed fit and proper in the circumstances of the case.

(d) The appeal is directed to be disposed of within six (6) months from the date of its filing.

7. The writ petition is accordingly disposed of. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

S.V. BHATT, J

Date: 09.08.2017
BSS

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