

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

WRIT PETITION No. 18130 of 2017

ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

This writ petition was filed assailing the action of the Syndicate Bank in not releasing the petitioner's Fixed Deposit amount of Rs.7,00,000/- held by it.

Perusal of the counter affidavit filed by the Syndicate Bank reflects that this amount was taken towards compensation/security when the petitioner brought bidders to the Bank to clear the dues by selling the building offered by him as a security interest in the capacity of a guarantor for the loan availed by M/s. Padmaja Bar & Restaurant, Vijayawada. It appears that the very same building was brought to sale by one Maddula Koteswara Rao in E.P.No.45 of 2002 in O.S.No.286 of 2000 on the file of the learned III Additional Senior Civil Judge, Vijayawada. In the public auction held in the execution proceedings on 22.11.2004, Maddula Koteswara Rao himself emerged as the highest bidder and the sale deed in his favour was executed and registered through the Court *vide* Document No.40 of 2005. Maddula Koteswara Rao thereafter filed O.S.No.307 of 2010 on the file of the learned VII Additional District Judge, Vijayawada, for damages, wherein the petitioner and the Syndicate Bank are arrayed as defendants. It is also borne out by the record that the petitioner himself filed I.A.No.44 of 2017 in O.S.No.307 of 2010 seeking a direction from the trial Court to the Bank to release his Fixed Deposit amount of Rs.7,00,000/-.

In the light of the aforestated facts, we are of the opinion that it would not be proper for this Court to exercise discretion in favour of the petitioner or adjudicate the issues arising in this writ petition. The

petitioner has already moved the trial Court in O.S.No.307 of 2010 by filing an application for release of the Fixed Deposit amount of Rs.7,00,000/-. He therefore cannot maintain this writ petition simultaneously for very same relief.

Leaving it open to the petitioner to pursue the I.A filed by him before the trial Court, this writ petition is dismissed. Pending Miscellaneous Petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

Date: 12.07.2017

ANIS, J

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