

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.42417 of 2017

ORDER: (per Justice Sanjay Kumar)

Heard Sri R.Raghunandan, learned senior counsel appearing for Sri T.Bala Mohan Reddy, learned counsel for the petitioners, Sri Ambadipudi Satyanarayana, learned counsel on caveat for the first respondent, and Sri Dharma Suri, learned counsel for respondents 3 and 4.

As we are not inclined to entertain this writ petition or pass any orders on merits, it is not necessary to either put the other respondents on notice or afford them an opportunity of hearing.

The grievance of the petitioners is with regard to the docket order dated 05.12.2017 passed by the Debts Recovery Tribunal-II, Hyderabad, in I.A.No.1059 of 2016 in S.A.No.301 of 2017 filed by the petitioners herein. By the said order, the Tribunal permitted the bank to issue a sale certificate in favour of the auction purchasers subject to the outcome of the S.A. However, the Tribunal added the rider that there shall be interim stay with regard to dispossession of the petitioners or their tenants from the S.A. schedule property till the disposal of the S.A. In effect, the petitioners' grievance would only be with regard to the permission granted to the bank to issue the sale certificate in favour of the auction purchasers.

Sri Ambadipudi Satyanarayana, learned counsel, would inform the Court that pursuant to the aforestated order, the sale certificate was already issued to the auction purchasers on 08.12.2017. He would however concede that the said sale certificate is yet to be registered.

As the very issuance of the sale certificate has been made subject to the outcome of the S.A., we are of the opinion that there would be no purpose served in interdicting the bank from completing the registration formalities. We however make it clear that even such registration would be subject to the outcome of the S.A.

One aspect however needs to be taken into account. As rightly pointed out by Sri R.Raghunandan, learned senior counsel, the Tribunal seems to have relied upon the amended provisions of Rule 9(4) of the Security Interest (Enforcement) Rules, 2002, which would not have application to the case on hand. The Tribunal would therefore have to be more mindful of this aspect of the matter while dealing with the main S.A. All issues in relation to the interpretation of the un-amended provisions of Rule 9 are left open for consideration by the Tribunal during the hearing of the S.A.

As we are informed that the S.A. is of the year 2016, the Tribunal shall endeavour to dispose of the same on merits expeditiously as the rights of the parties are kept hanging in balance owing to the interim orders passed by the Tribunal.

Subject to the above observations, the writ petition is closed.

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

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 14.12.2017
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