

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 2591 of 2018

Order:

Heard learned counsel for the petitioner.

It is the case of the petitioner that the fifth respondent approached her and borrowed an amount of Rs.1,60,000/- on 27.07.2014 for his business necessities and executed a promissory note. Since the fifth respondent did not repay the debt, the petitioner filed O.S.No.86 of 2016 on the file of the Principal Junior Civil Judge, Vinukonda for recovery of the said amount. The petitioner came to know that the fifth respondent mortgaged his property in favour of M/s. Lakshmi Vilas Bank, Vinukonda Branch and availed financial assistance. The petitioner filed I.A.No.431 of 2016 in O.S.No.86 of 2016 seeking attachment before judgment and a conditional order of attachment was passed in respect of the said mortgaged property. Subsequently, the said suit was decreed on 24.08.2017. The petitioner came to know that the fifth respondent executed a sale deed in favour of the third party on 05.09.2017 and on coming to know of the same the petitioner filed an objection petition before the fourth respondent on 01.09.2017 not to register the said document. The fourth respondent appears to have refused to register the document and against the same the fifth respondent filed an appeal before the third respondent. In those circumstances, the petitioner sent a petition to the third respondent seeking prior notice before deciding the appeal preferred by the fifth respondent. She submitted the said petition on 18.01.2018 and the present Writ Petition is filed seeking a direction to the third respondent.

Admittedly, O.S.No.86 of 2016 filed by the petitioner against the fifth respondent seeking recovery of the money was decreed on 24.08.2017.

The petitioner also obtained conditional order of attachment before judgment in I.A.No.431 of 2016 in O.S.No.86 of 2016 in respect of the same property which the fifth respondent is stated to have been alienating. In view of the appropriate remedies available before the Civil Court and in the absence of any provision for considering the petition filed by the petitioner on 18.01.2018, no relief can be granted to the petitioner in the present Writ Petition.

The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 30.01.2018
Nsr

A. RAMALINGESWARA RAO, J

