

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.3766 OF 2018

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner in this case reads as under:

“For the reasons stated in the accompanying affidavit, the Petitioner prays that this Hon'ble Court may be pleased to issue an appropriate writ order or direction, more particularly a writ in the nature of WRIT OF MANDAMUS, declaring the action of the Respondent Bank in Notifying the property vacant land in an extent of Acres 0.04 Cents in Sy.No.620/1 at Chinna Chowk Village, Kadapa Municipal Corporation, YSR District, for “E-Auction” in Eenadu Daily Newspaper dated:07/11/2017 and 08/12/2017 Daily Newspaper and accepting the offer made by the 4th Respondent and refusing to consider the offer made by the Petitioner as illegal, arbitrary and contrary to the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, and to pass such other order or orders in the circumstances of the case in the interest of justice.”

Sri M.L.Ali, learned counsel for the petitioner, fairly states that pursuant to the auction sale notice dated 08.12.2017, the auction sale has been held on 28.12.2017. He would seek to raise issues with regard to the valuation of the properties sold and the fixation of the reserve price in relation thereto.

These issues would require adjudication on factual aspects which cannot be undertaken by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution. We may also note that an efficacious alternative remedy has been provided to an aggrieved borrower under Section 17 of the Securitisation and Reconstruction of

Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act'), if he has any complaint with regard to the measures taken by the secured creditor under Section 13(4) thereof. The Supreme Court has also held time and again that this Court ought not to entertain writ petitions when the aggrieved borrower has not chosen to take recourse to the statutory remedy available to him under the provisions of the SARFAESI Act.

Thus, for reasons more than one, we are not inclined to entertain this writ petition.

The writ petition is accordingly dismissed leaving it open to the petitioner to avail the statutory remedy in accordance with law.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.



SANJAY KUMAR,J

P. KESHA RAO,J

Date: 07.02.2018
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