

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION No. 7861 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, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ, order or direction, particularly one in the nature of Writ of Mandamus, declaring the action of the 1st respondent in trying to proceed the sale of the petitioner property and alienate the same in favour of the third parties pursuant to the auction notice dated 12.10.2017 while pending appeal before the 2nd respondent Tribunal as illegal and arbitrary and to pass such other order or orders may deem fit and proper in the circumstances of the case."

Admittedly, the petitioner filed S.A.No.1415 of 2017 before the Debts Recovery Tribunal – I, Hyderabad, on 12.10.2017 assailing the Public Notice-Auction-cum-Sale of Properties dated 11.09.2017 fixing the date of auction as 12.10.2017. He also sought a direction to set aside all the measures initiated by the Asset Reconstruction Company (India) Limited (ARCIL) under Sections 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The interim relief prayed for by the petitioner in the said S.A. was to stay all further proceedings pursuant to the impugned notice dated 11.09.2017.

Sri Rudresh Deshpande, learned counsel for the petitioner, would concede that no interim order was granted by the Tribunal in the said S.A.

Learned counsel is however not in a position to inform us as to whether the sale held on 12.10.2017 fructified and if so, whether the auction purchaser complied with the conditions of the sale. Significantly, the auction purchaser, if any, has not even been impleaded in this writ petition.

This being the fact situation, we fail to understand as to why the petitioner now seeks a declaration that the action of the ARCIL in trying to proceed with the sale of the property pursuant to the auction dated 12.10.2017 is illegal. If at all the sale materialised on 12.10.2017, it is for the petitioner to take necessary steps in the pending Securitisation Application.

Viewed from any angle, we find no grounds to entertain this writ petition, much less, adjudicate it on merits.

The Writ Petition is accordingly dismissed leaving it open to the petitioner to pursue the statutory remedy already availed by him. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

Date: 09.03.2018

JUSTICE SANJAY KUMAR

va

JUSTICE D.V.S.S.SOMAYAJULU

