

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.12025 of 2006

ORDER:

This writ petition is filed seeking a writ of mandamus, declaring the action of the respondents in conducting auction of the properties in Sy.Nos.75, 77, 78 and 79, total admeasuring Ac.3.39 gts, situated at Nizampet village, Kuthubullapur Mandal, Ranga Reddy District, as contrary to the A.P.Cooperative Societies Act & Rules, contrary to the principles of natural justice and in violation of Article-14 of the Constitution of India, and also seeking a consequential direction to suspend the auction notice, dated 10.06.2006.

Heard Sri S.Satyanarayana Murthy, learned counsel for the petitioners and the learned Govt.Pleader for Cooperation.

It has been contended by the petitioners that they have purchased the subject lands from respondent No.3 by way of 10 registered sale deeds, all dated 14.11.2005 and since then, they have been in peaceful possession and enjoyment of the said lands. While so, respondents Nos.1 and 2 have initiated proceedings of recovery of loan amount against respondent No.3, who was the original borrower of the loan. The petitioners have nothing to do with the said loan transaction as they have not borrowed any amount from respondents Nos.1 and 2.

Learned Government Pleader for Cooperation has contended that respondent No.3 had taken a loan from the 1st respondent bank and hence respondents Nos.1 and 2 had initiated proceedings for recovery of the loan amount, and in pursuance to the award passed by the arbitrator, the 2nd respondent was intended to conduct a public auction of the

subject lands for recovery of the loan amount from the 3rd respondent. Obviously, respondent No.3 had not disclosed about the mortgage of the subject properties with the 1st respondent while selling the same to the petitioners.

This court has considered the rival submissions made by both the parties. The petitioners have purchased the property which has already been mortgaged to respondent No.1 by respondent No.3 towards security of a loan taken by her and suppressing the said fact, she had sold the said properties to the petitioners. The petitioners have also without verifying the documents and encumbrance certificates purchased the said property by way of 10 registered sale deeds, dated 14.11.2005. In that view of the matter, no relief, as sought for, can be granted in favour of the petitioners.

The Writ Petition is accordingly dismissed. However, the petitioners are at liberty to proceed against the 3rd respondent for damages, as they have sustained loss at her hands, in accordance with law. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 02.04.2018
Dsr