

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.11507 OF 2007

ORDER:

This writ petition is filed to issue a Writ of Mandamus declaring the proceedings of the first respondent dated 02.05.2007 in E.P.No.63/77-78, whereby the immovable property of the petitioner has been notified for sale by way of public auction, as illegal and barred by limitation and consequently to direct the first respondent not to proceed against the properties of the petitioner in pursuance of the notice dated 02.05.2007.

2. The learned counsel for the petitioner would contend that the petitioner received sale notice from the first respondent on 02.05.2007, wherein the first respondent has notified the sale of immovable property of the petitioner situated in Survey No.172/22 of Ailapur Village of Nizamabad District to be held on 06.06.2007 at 11.30 a.m. The property is put to auction on account of the decree obtained by the second respondent in the year 1977 against the petitioner and the amount to be recovered in favour of the second respondent is Rs.31,77,589/-, which includes interest @ 15.5% on the principal amount from the year 1977-78.

It is further contended that the petitioner filed an objection petition dated 14.05.2007 with the first respondent

contending that they are not due any amount to the second respondent and since the debt is more than 30 years old, even admitting for a moment that a decree was passed in favour of the second respondent, it cannot be executed at this juncture as the same is barred by limitation.

It is also contended that any execution proceedings have to be taken place within 12 years from the date of passing of the decree and it is not executable after lapse of said period, and therefore, the proceedings of the first respondent dated 02.05.2007, is illegal.

3. This Court, by order dated 05.06.2007 in WPMP No.14327 of 2007, granted interim stay of all further proceedings in pursuance of the sale notice dated 02.05.2007 and the same was made absolute in WVMP No.1749 of 2007, dated 10.02.2011.

4. In spite of service of notices and granting repeated adjournments, no one has appeared for the respondents. Hence, this Court is constrained to accept the contentions of the petitioner and thereby the writ petition is liable to be allowed with exemplary costs.

5. Accordingly, the writ petition is allowed with exemplary costs of Rs.20,000/- (Rupees Twenty thousand only), recoverable from the respondents.

6. Miscellaneous Petitions, if any, pending in this Writ
Petition shall stand closed.

JUSTICE M.GANGA RAO

14-03-2018
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WRIT PETITION No. 11507 OF 2007

14-03-2018

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