

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.20485 of 2017

ORDER: (per SK,J)

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 to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the respondents in taking possession of the immovable properties of Saibhya Agro Storage which belongs to the 4th respondent as illegal, arbitrary against violate of article 14, 19 and 21 of Constitution of India against the principals of natural justice, and against the banking laws consequently to direct the respondent No.3 not to proceed further in respect of the immovable properties of Saibhya Agro Storage situated at R.S.No.434/3B & 434/4, Dharmavaram Village, Prathipadu Mandal, East Godavari District, A.P.; which belongs to the 4th respondent which was attached In I.A.No.1001/2016 in O.S.No.1381/2016 by the Additional Senior Civil judge at Visakhapatnam dt. 28-10-2016 and pass such other order or orders as may deem fit and proper in the circumstances of the case.'

Sri Challa Srinivasa Reddy, learned counsel for the petitioner, would state that his client instituted O.S.No.1381 of 2016 before the learned VI Additional Senior Civil Judge, Visakhapatnam, and obtained an order of attachment prior to judgment on 28.10.2016 in I.A.No.1001 of 2016 filed therein. However, perusal of the aforestated order reflects that the trial Court merely called upon the defendant in the suit, the fourth respondent herein, to furnish security and did not order conditional attachment before judgment in the event of failure.

The grievance of the petitioner is with the Indian Overseas Bank in initiating proceedings against the very same property which was sought to be attached for recovery of its debts under the provisions of the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Sri Challa Srinivasa Reddy, learned counsel, fairly concedes that even if his client secured an order of attachment before judgment, it would not have the effect of elevating his status to that of a secured creditor.

Given this concession, the right of the secured creditor, the Indian Overseas Bank, to recover its dues from the secured asset would have to take priority over the dues of the petitioner, even if the suit filed by him is decreed. That being so, this Court finds no reason to interfere in the matter.

The writ petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.



SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:02.07.2018

GJ