

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

WRIT PETITION No.40122 OF 2015

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

The prayer in this writ petition reads as under:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble court may be pleased to issue appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus declaring the orders passed in SA.No.239/2015 dt.02.12.2015 by the Honble Debts Recovery Tribunal at Hyderabad and the auction notice dt.04.11.2015 proposing to auction the property bearing M.No.1-4-880/9, (M.C.No.81) on plot No.9, in Survey Nos.140 and 141, admeasuring 55.5 sq. yards out of 255.20 square yards, situated at New Bakaram, Hyderabad as illegal, arbitrary, violative of principles of natural justice, Section 14 of the provisions of SARFAESI Act and Rules 8 and 9 of the SARFAESI Rules and set aside the same and pass such other order or orders that may deem fit and proper in the circumstances of the case.”

Perusal of the record reflects that the petitioner is a third party to the loan transaction between the second respondent herein and the LIC Housing Finance Limited, the first respondent herein, in relation to which the subject property over which the petitioner claims ownership was offered as a security. The petitioner filed S.A.No.239 of 2015 before the Debts Recovery Tribunal, Hyderabad, in connection with the notice dated 28.01.2015 issued by the Advocate Commissioner pursuant to the order passed by the learned Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.60 of 2015 in exercise of power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, for taking over possession of the subject property.

An interlocutory application was filed thereafter in the said S.A. seeking stay of all further proceedings in pursuance of the auction notice dated 04.11.2015, whereby the LIC Housing Finance Limited proposed to auction the subject property on 11.12.2015. Thereupon, the Tribunal passed order dated 02.12.2015 permitting the first respondent company to go ahead with the sale, as proposed, but directing it to intimate the

auction purchaser about the said order. Aggrieved by this order and the proposed auction of the property by the LIC Housing Finance Limited, this writ petition was filed by the petitioner.

By order dated 11.12.2015, this Court directed the petitioner to deposit Rs.25.00 lakhs with the LIC Housing Finance Limited on or before 16.12.2015 and another Rs.25.00 lakhs on or before 23.12.2015 and subject to these payments, the first respondent company and its Authorized Officer were directed not to confirm the sale.

Sri J.Prabhakar, learned counsel for the petitioner, would state that the aforestated conditional order was duly complied with by his client by making the payments as directed.

Sri Bathula Raj Kiran, learned counsel for the LIC Housing Finance Limited, would however inform this Court that the sale proposed to be held on 11.12.2015 did not materialise for want of bidders. He would further state that the LIC Housing Finance Limited has now decided to initiate measures afresh for sale of the subject property.

Sri J.Prabhakar, learned counsel, would submit that as the issue of possession still remains undecided in the pending S.A., that aspect of the matter may be left open.

In the light of the aforestated developments and given the submissions made by the learned counsel, we are of the opinion that this writ petition no longer survives for consideration on merits.

The writ petition is accordingly closed leaving it open to the petitioner to pursue S.A.No.239 of 2015 pending before the Tribunal and/or such other remedies as are available to him in law.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

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SANJAY KUMAR,J

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P. KESHA RAO,J

Date:24.01.2018  
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