

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

WRIT PETITION No.24140 of 2018

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

The prayer of the petitioners in this case 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 a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.1 trying to attach and sell the residential plots of the petitioners bearing No. 1,2,8 & 9 admeasuring 1332.5 Sq.yards in Sy.No.99/2 situated in Upparapalem Village, Mangalam group, Tirupati Urban Mandal, Chittoor District, as arbitrary, illegal, violative of Article 21 and 300A of the Constitution of India, and principles of natural justice and consequently direct respondent No.1 not to proceed against the said property of petitioners and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest in justice.”

It appears that the Andhra Bank, the first respondent herein, filed O.A.No.582 of 2012 on the file of the Debts Recovery Tribunal, Hyderabad, under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, against the second and third respondents herein, who created a mortgage over the subject properties in relation to the loan facilities availed by them from it. The petitioners, who are third parties to the said O.A., lay a claim to the said properties. The Tribunal, *vide* order dated 08.07.2013, allowed the O.A. holding that the bank was entitled to recover a sum of Rs.52,48,186.90 ps. with future interest from the second and third respondents, who did not even choose to contest the O.A., and directing issuance of the recovery certificate.

A hierarchy of remedies is available to the petitioners if they are aggrieved by the aforesaid order which was passed as long back as on 08.07.2013 or the proceedings taken thereafter by the Recovery Officer pursuant to the recovery certificate issued in terms of the said order. That being so, we are not inclined to entertain this writ petition at the behest of the petitioners who are third parties to the recovery proceedings.

The writ petition is accordingly dismissed leaving it open to the petitioners to invoke appropriate statutory remedies available to them in accordance with law.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

Dt: 13.07.2018.
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SANJAY KUMAR, J

T.AMARNATH GOUD, J