

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

WRIT PETITION No. 21567 of 2017

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

The prayer of the petitioner in this case reads as under:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or directions more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents No.1 in interfering with the peaceful possession and enjoyment of petitioner's house bearing plot No.109, admeasuring 200 Sq. yards in Sy.No 65/ , 65/ , 65/part & 80/part, situated at Gandhamguda Village, Rajendranagar Mandal, Ranga Reddy Dist., TS, purchased through a Regd. Sale deed vide doc. No. 3564 of 2002, dated 04.06.2002, under the guise of SARFAESI Act 2002 proceedings vide Commissioner's Warrant dated 22.11.2016 issued in CrI.M.P.No. 793 of 2016 and notice dated 07.06.2017 issued Under Rule 6(2)/8(6) of Security Interest (Enforcement) Rules 2002 issued by the Respondent No.1 and making efforts to take possession of the petitioner's property, even though the said property is not under the mortgage loan, as illegal, arbitrary and contrary to the Articles of Constitution of India and amounts to violation of principles of natural justice and consequently direct the respondent No. 1 not to interfere with the petitioner's house property bearing plot No.109, admsg 200 Sq yards in Sy.No.65/ , 65/ , 65/part & 80/part situated at Gandhamguda Village, Rajendranagar Mandal, Ranga Reddy Dist., TS, in any manner henceforth and pass such other order or orders.”

By interim order dated 03.07.2017 granted in this writ petition, this

Court directed as under:

“As it is the claim of the petitioner that Plot No.109 in Survey Nos.65/E and 65/EE, Srinivasa Nagar Colony, Gandhamguda Village, Rajendranagar Mandal, Ranga Reddy District, was not mortgaged along with other plots and this fact is borne out by the warrant issued in CrI.M.P.No.793 of 2016 on the file of the learned Chief Metropolitan Magistrate, Ranga Reddy District, there shall be a direction to the first respondent not to interfere with the possession of the petitioner over or proceed against Plot No.109 situated at Gandhamguda Village, Rajendra Nagar Mandal, Ranga Reddy District, pending further orders.”

The respondent - Andhra Bank filed a counter affidavit through its Chief Manager and Authorised Officer, Secured Asset Recovery Management Branch, Koti, Hyderabad, wherein it stated that Plot No.109 was not mortgaged with the Bank and that the Bank has not taken possession of the said plot.

As the grievance of the petitioner was that the respondent-Bank may proceed against Plot No.109 and interfere with his possession and enjoyment over the same and as the respondent-Bank now concedes that it has no interest in Plot No.109, Gandhamguda Village, Rajendranagar Mandal, Ranga Reddy District, the writ petition is closed duly taking on record the stand of the respondent-Bank as set out in its counter.

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

Date: 20.06.2018

JUSTICE SANJAY KUMAR

JUSTICE T. AMARNATH GOUD

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