

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.29729 of 2018

ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This Writ Petition is filed seeking a writ of mandamus to declare the action of the respondent-Bank, in issuing the e-auction sale notice in item No.4 published in Eenadu Telugu daily newspaper dated 22.07.2018, to declare the action of the respondent-Bank in proceeding with the sale of the property of the petitioner admeasuring 533.33 sq. yards located at Door No.24-14-1 Plot No.66, R.V. Nagar, Rajahmundry, East Godavari District, which is valued at more than Rs.4.00 Crores, and in putting up an advertisement for sale, showing the outstanding balance mentioned in the e-auction sale notice as Rs.25,77,91,819/- plus unapplied interest, as illegal and arbitrary.

The sole contention, urged on behalf of the petitioner, by Sri C.V. Mohan Reddy, Learned Senior Counsel appearing on behalf of the petitioner, is that, instead of proceeding against the borrower, the respondent-Bank had chosen to proceed against the guarantor.

It is not in dispute that the petitioner had guaranteed the loan borrowed by M/s.Lakshman Paper Mills Pvt. Ltd. Having given security to the loan, the petitioner cannot now be heard to contend that the respondent-Bank, instead of proceeding against the guarantor, should proceed first against the borrower as it is for the respondent-Bank to choose the manner in which the amounts due, from the borrower, shall be recovered; and it is open to them

to decide whether they should, in the first instance, proceed against the borrower or the guarantor. The petitioner has not even chosen to array the borrower as a respondent in this Writ Petition. In any view of the matter, we see no reason to entertain this Writ Petition.

The Writ Petition as filed is wholly misconceived, and is accordingly dismissed. Miscellaneous petitions pending, if any, shall stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

Date: 21st August, 2018.

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