THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.32602 OF 2018

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri P.Nagendra Reddy, learned counsel for the petitioner and Sri S.Suri Babu, learned Special Standing Counsel for Commercial Taxes and, with their consent, the Writ Petition is disposed of at the stage of admission.

The petitioner's father, one Sri Narasimham, is the paternal grand father of the third respondent. The third respondent's father Sri Y.Venkat Reddy and the petitioner are siblings (step brother and step sister). The mother of Sri Y.Venkat Reddy and the mother of the petitioner are sisters. While Sri Narasimham is said to have first married the mother of Sri Y.Venkat Reddy, on her demise he is said to have married the petitioner's mother. It is the petitioner's case that her mother is the owner of the property which she purchased under a registered sale deed executed vide document No.1060/1955 dated 19.11.1955. The subject property, which is sought to be put to sale for recovery of sales tax arrears by the Commercial Tax department, is said to have been given to the third respondent under a settlement deed executed in his favour by his father Sri Y.Venkat Reddy, in the year 2011 vide document No.6252/2011 dated 14.07.2011.

While the petitioner contends that the subsequent settlement deed is a nullity, since Sri Y.Venkat Reddy did not have any right to alienate or settle it in favour of the third respondent, this Court would not, in proceedings under Article 226 of the Constitution of India, take upon itself the task of adjudicating disputed questions of title. Suffice it to observe that it is only if the property belongs to the third respondent would the Commercial Tax department be entitled to put the subject property to sale for recovery of arrears of sales tax due from him.

While the petitioner's remedy would, ordinarily, be to approach the competent Civil Court and seek adjudication of disputes as to whether or not the third respondent has title over the subject property, Sri P.Nagendra Reddy, learned counsel for the petitioner, would submit that the auction is scheduled to be held tomorrow i.e. on 12.09.2018; and, instead of keeping the Writ Petition pending on the file of this Court, it would suffice if the respondent-authorities were directed to examine the petitioner's representation dated 04.09.2018 wherein she has furnished all details including her title over the subject property. A copy of the representation is filed along with the Writ Petition.

While we see no reason to interdict the auction scheduled to be held tomorrow, suffice it to dispose of the Writ Petition directing the first respondent to consider the petitioner's representation dated 04.09.2018, pass a reasoned order thereupon and communicate the same to her before confirming the sale in favour of the auction purchaser.

The Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(KONGARA VIJAYA LAKSHMI, J)

11th September 2018

NOTE: Issue CC by tomorrow
B/O
RRB