

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

WRIT PETITION No.17144 of 2017

ORDER: (Per Justice Sanjay Kumar)

The petitioner assailed the e-auction sale notice dated 15.04.2017, published in the Indian Express daily newspaper on 16.04.2017, whereunder the State Bank of India fixed the date of auction sale of the petitioner's mortgaged property as 18.05.2017. The property proposed to be sold is an open land bearing plot No.47, admeasuring Ac.41.19 cents, in Sy.Nos.894-B and 895-A of Ganneraripalli Village, Tadepatri SRO, Anantapur District.

By order dated 18.05.2017, this Court granted interim stay of all further proceedings, including dispossession of the petitioner from the subject property, pursuant to the e-auction notice dated 15.04.2017 subject to the petitioner depositing the entire loan amount due by 01.06.2017. The bank was also restrained from confirming the sale. In the event the amount was not deposited by the petitioner within the stipulated period, this Court left it to the bank to proceed further as per the auction held on 18.05.2017.

Sri M.Srikanth Reddy, learned counsel for the State Bank of India, would inform this Court that the petitioner failed to abide by the aforestated conditional order.

Sri A.Jagan, learned counsel for the petitioner, does not dispute this fact.

We are further informed that the sale held on 18.05.2017 materialized and pursuant thereto, the bank executed Sale Certificate

dated 26.05.2017 in favour of the auction purchaser in relation to the subject property.

In the light of the aforestated facts, as the petitioner, having invoked the discretionary jurisdiction of this Court under Article 226 of the Constitution, failed to abide by the conditional order passed by this Court, whereby she was granted protection, no cause is made out for adjudication of this writ petition on merits. That apart, the factual development of a sale in favour of a party, who is not even impleaded in this writ petition, must also be taken note of. This Court therefore cannot adjudicate upon the validity of the said sale in the absence of a vitally affected party, the auction purchaser.

Thus, on grounds more than one, this writ petition deserves to be dismissed and is accordingly dismissed. We however make it clear that this order shall not preclude the petitioner from availing appropriate remedies before the proper forum in accordance with law, if so advised.

Interim order dated 18.05.2017 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

P. KESHAHA RAO,J

Date: 09.02.2018
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