

The Hon'ble Sri Justice A.Shankar Narayana

Civil Revision Petition No.1845 of 2013

Order:

This Civil Revision Petition (CRP) arises out of Order, dated 28-02-2013, in IA.No.1041 of 2012 in OS.No.17 of 2008 on the file of the Senior Civil Judge, Markapur (for short 'the Court below').

Heard Sri G.Anandam, learned Counsel for the petitioner, and Sri Kasim Saheb, learned Counsel for the respondent.

By the order under challenge, the Court below dismissed the aforesaid IA filed under Order I Rule 10 CPC, whereby the State Bank of India, Pedda Dornal branch, was sought to be impleaded as the 12th defendant in the suit on the ground that the suit schedule property, which is sought to be partitioned, was mortgaged prior to the date of settlement deed.

A perusal of the order under challenge goes to show that it does not deal with any of the above aspects except stating that there is no privity of contract between the petitioners and the respondents in OS.No.17 of 2008. Though it has referred to the proceedings pending under the

provisions of the Securitisation Act, no details have been mentioned. In such an event, the matter is required to be remitted to the Court below with a direction to it to dispose of the IA by giving an opportunity to both sides, more particularly, to the Bank to file a copy of the mortgage deed to arrive at a finding as to whether the same was executed prior to the settlement deed and whether the securitisation proceedings would bar the civil suit.

Accordingly, the CRP is allowed by setting aside Order, dated 28.02.2013, in IA.No.1041 of 2012 in OS.No.17 of 2008. Consequently, IA.No.1041 of 2012 is restored to file for disposal of the said IA as indicated above.

(A.Shankar Narayana, J)

Dt: 14th June, 2018
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