

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

WRIT PETITION No.37906 OF 2017

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

The prayer of the petitioners reads as under:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, to declare the action of the respondent authorities in issuing the auction notice dt. 13-10-2017 proposing to conduct auction of the property shown at item No.3 which is under attachment in relation to the orders passed in I.A.No.1326 of 2016 in O.S.No.411/2016 dt. 8-11-2016 in spite of the legal notice, as being illegal, arbitrary and unjust and consequently set the auction notice dt. 13-10-2017 in so far as the property shown at item No.3 is concerned, and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Smt.K.Aruna, learned counsel for the petitioners, would state that her clients secured an order of attachment before judgment on 08.11.2016 in I.A.No.1326 of 2016 in O.S.No.411 of 2016 on the file of the learned III Additional District Judge, Guntur, in relation to the very same property which is sought to be sold by the Indian Bank, the first respondent herein, for realization of its dues from the borrower, the husband of the third respondent herein. She would further state that legal notice dated __.08.2017 issued by the petitioners to the bank did not evoke any response, constraining them to file this writ petition.

Sri Ambadipudi Satyanarayana, learned counsel for the Indian Bank, would state that the dues payable by the husband of the third respondent to the bank are in the range of Rs.3.00 crores as on date. He would further state that in terms of the legal notice aforesaid, the petitioners called upon the bank to conduct an open auction of the property in question and after recovery of its debt amount, if any balance remained in the name of the husband of the third respondent, the said amount may be withheld in the bank's custody to be made over to them. Learned counsel would further state that the bank has no objection in acceding to the request of the petitioners as set out supra and that, in the

event any surplus amount remained after appropriation of the sale proceeds of the asset in question, the same would be held in the custody of the bank for the benefit of the petitioners in accordance with law.

In the light of the stand put forth on behalf of the Indian Bank, Smt.K.Aruna, learned counsel, would concede that no further adjudication is required in this writ petition.

The writ petition is accordingly disposed of taking on record the stand of the Indian Bank as set out hereinabove.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

P. KESHAVA RAO,J

Date:23.01.2018
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