

HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON' BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.308 OF 2019

ORDER: (per V. Ramasubramanian, J)

The petitioner has come up with the above Writ Petition seeking a Writ of *Mandamus* to declare the order dated 20.07.2018, passed in Criminal M.P.No.2368 of 2018 on the file of the Chief Metropolitan Magistrate, City Criminal Courts, Nampally, Hyderabad.

Heard learned counsel for the petitioner.

The prayer in the Writ Petition reads as follows:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue appropriate Writ or any other order or direction particularly one in the nature of Writ of *Mandamus* declaring the impugned order dated 20.07.2018, passed in CrI.M.P.No.2368 of 2018 in S.R.No.3880 of 2018 on the file of the Chief Metropolitan Magistrate, Nampally Criminal Courts, Red Hills, Hyderabad, was obtained by fraud, arbitrarily and illegally and set aside the same and to pass such other order or orders appropriate in the case”.

The petitioner has already filed an appeal in S.A.No.472 of 2018 on the file of the Debts Recovery Tribunal. The prayer before the Tribunal reads as follows:

“RELIEF SOUGHT: In view of the facts mentioned above the applicant prays for the following relief(s):

- i. Declare the action of the respondent Bank in taking physical possession of the schedule property through Advocate Commissioner appointed in CrI.M.P.No.2368 of 2018, dated 20.07.2018 and conducting panchanama on 29.10.2018, is illegal and void.
- ii. To re-deliver possession of the schedule property till disposal of the S.A. in the interest of justice.”

There is not even a cosmetic difference between prayer made before the Tribunal and the prayer made here. But it is sought to be projected by the learned counsel for the petitioner that the present Writ Petition is filed because of the apprehension that the property may be brought to sale. But the prayer in the Writ Petition is not for setting aside any sale. No sale notice is under challenge. For an identical prayer the Writ Petition has been filed.

Therefore, the Writ Petition is dismissed. No order as to costs.

Consequently, miscellaneous petitions if any pending in the Writ Petition shall stand dismissed.



V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

04.01.2019
mgr/vhb