

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAHA RAO

WRIT PETITION No.2563 of 2019

ORDER: (*per V. Ramasubramanian, J*)

The petitioner has come up with the above Writ Petition challenging an auction sale notice issued by the 2nd respondent herein.

2. Heard Mr.Krishna Reddy, learned Counsel for the petitioner.

3. The petitioner is holding a decree for specific performance of an agreement of sale dated 28.03.2013. The suit as against the original owner in O.S.No.689 of 2013 was decreed *ex parte* on 28.03.2014. It appears that the petitioner filed E.P.No.46 of 2014 and a sale deed was executed on 21.09.2015 and registered, by the Court itself.

4. However, the L.I.C.Housing Finance Limited brought the same property to sale under the impugned auction sale notice, on the ground that the property was under mortgage to them. Therefore, challenging the same, the petitioner is before us.

5. The claim of the petitioner is that she is having valid title to the property in question and that even the Encumbrance Certificate did not disclose the mortgage. But what is raised by the petitioner is actually a factual dispute. Such factual disputes should be sorted out first before the Debts Recovery Tribunal. The Tribunal is a quasi-judicial authority for determination of the issues of law and fact.

6. Therefore, leaving it open to the petitioner to approach the Debts Recovery Tribunal, the Writ Petition is dismissed.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

February 11, 2019
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