

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

and

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

Writ Petition No.16568 of 2019

ORDER : (per Hon'ble M.S. Ramachandra Rao)

Heard the counsel for petitioner, and Smt. V. Dyumani, counsel for 1st respondent-Bank.

2. The petitioner herein is occupant of premises being Industrial Property Plot No.5, admeasuring 617 Sq.yds. in Survey No.124(P), situate at Op. CFC Area Industrial Park, Nacharam, Nacharam Village and Municipality, Uppal Mandal, Ranga Reddy District.

3. The petitioner was inducted into possession of this property by the 3rd respondent herein.

4. The said property had been mortgaged to 1st respondent-Bank by the 3rd respondent for availing a loan by depositing the title deed No.11788 of 2013 dt.06.11.2013.

5. The Bank filed O.A.No.724 of 2015 against 3rd respondent and obtained recovery certificate on 20.02.2017. When the Bank sought to execute the decree, the petitioner filed C.P.No.1 of 2019 under Rule 11 of II Schedule to the Income Tax Act, 1961 setting up claim to the subject property, and seeking its release from attachment and sale; and contending that it is not liable for attachment.

6. After contest, the said application was dismissed on 08.03.2019.

7. The petitioner is still squatting over the property having suffered the said order, and has filed this Writ Petition challenging the right of the 3rd respondent to recover possession of the property from him.

8. The Advocate-Commissioner, appointed by the Debts Recovery Tribunal-II, Hyderabad, at the instance of the 1st respondent-Bank, issued a notice on 29.07.2019 asking the petitioner to vacate the said property in execution of the warrant issued to the said Advocate in O.A.No.724 of 2015.

9. It is not in dispute that under Section 25, the Recovery Certificate issued by the Debts Recovery Tribunal has to be executed *inter alia* by also taking possession of the property over which security interest was created and then taking steps to sell it. (Section 25(a)(a)).

10. This legal position is not disputed by the counsel for petitioner.

11. In this view of the matter, we see no merit in the Writ Petition, and it is accordingly dismissed. No costs.

12. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

JUSTICE K. LAKSHMAN

Date: 26.11.2019

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