

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE K.LAKSHMAN

WP.No.22213 of 2019

ORDER: *(Per the Hon'ble Sri Justice M.S.Ramachandra Rao)*

This Writ Petition is directed against the order dt.24.07.2019 of Debt Recovery Tribunal-II, Hyderabad in Recovery Appeal No.2 of 2019.

2. Petitioner was the highest bidder in an auction conducted by the Recovery Officer on 05.04.2019 in respect of certain secured assets. He did deposit 25% of the bid amount but could not comply with the direction to deposit 75% of the balance sale consideration amount within the time stipulated under Rule 57(1) and (2) of the II Schedule of the Income Tax Act, 1961.

3. According to the petitioner, his inability to do so was on account of the marriage of his daughter and subsequent illness.

4. Petitioner filed MP.No.136 of 2019 before the Recovery Officer seeking extension of time for four weeks for depositing the remaining sale consideration.

5. The same was dismissed by the Recovery Officer on 25.04.2019.

6. Petitioner then challenged it before the Debt Recovery Tribunal-II, Hyderabad and the said Tribunal relying on the decision of the Supreme Court in ***C.N.Paramshivam and another***

v. Sunrise Plaza Tr. Partner and Others¹, rejected the said appeal. It held that the Supreme Court in the said decision had declared that Rule 57(1) and (2) of II Schedule of the Income Tax Act, 1961 are mandatory and failure to comply with the rules vitiate the sale.

7. Assailing the same, this Writ Petition is filed.

8. Counsel for the petitioner does not dispute the principle of law laid down in **C.N.Paramshivam's** case(1 supra). He has also not been able to place any decision of the Apex Court taking a different view.

9. Since the said decision of the Supreme Court in **C.N.Paramshivam's** case(1 supra) is binding on this Court, we do not find any merit in this Writ Petition.

10. Accordingly, this Writ Petition is dismissed. No order as to costs.

11. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S. RAMACHANDRA RAO, J

K.LAKSHMAN, J

15th October, 2019.

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¹ Civil Appeal No.154 of 2013(arising out of SLP(C).No.21765 of 2010) dt.09.01.2013.