

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAHA RAO

CIVIL REVISION PETITION No.4087 OF 2018

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

Aggrieved by the dismissal of an application for summoning certain witnesses and for production of certain documents, the defendants No.6 and 7 in a suit for declaration have come up with the above Civil Revision Petition.

2. Heard Mr.Damodar Mundra, learned Counsel for the petitioners and Mr.D.Srinivas Prasad, learned Counsel for the 1st respondent/plaintiff.

3. The 1st respondent/plaintiff filed a suit in O.S.No.223 of 2010 on the file of the I-Additional Chief Judge, City Civil Court (now transferred to the file of the XXVII-Additional Chief Judge) praying for (1) a declaration of title, (2) recovery of possession, (3) a declaration that the certificate of sale issued by the Authorized Officer of the State Bank of India under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short 'the Securitization Act, 2002') is null and void, (4) a declaration that the sale made by the auction purchasers in favour of defendant Nos.6 and 7 is null and void, and (5) a perpetual injunction.

4. The State Bank of India and its Authorized Officer were made defendants No.1 and 2 to the suit. The auction purchasers

were made as defendants No.3 to 5 and the subsequent purchasers were impleaded as defendants No.6 and 7.

5. In the course of trial, the defendants No.6 and 7 who are the petitioners herein filed an application for summoning the Chief Manager of the Bank and for production of certain documents. The application was taken out for the purpose of proving the sale.

6. The application was dismissed by the trial Court on the ground that it was unbelievable that the petitioners purchased the property from the auction purchasers without knowing real facts. Aggrieved by the said order, the petitioners/defendants No.6 and 7 are before us.

7. Though the reasoning contained in the impugned Order, cannot be accepted, we do not think that the ultimate conclusion reached by the trial Court calls for any interference. The fact that the Bank initiated proceedings under the Securitization Act, 2002, and sold the property to defendants No.3 to 5 and the fact that defendants No.3 to 5 sold the property to defendants No.6 and 7 are all admitted in the plaint. This is why the 1st respondent/plaintiff is seeking a decree for declaring the certificate of sale issued by the Authorized Officer in favour of defendants No.3 to 5 as null and void and she is also seeking a further declaration that the sale made by defendants No.3 to 5 in favour of defendants No.6 and 7 is null and void.

8. In fact, the suit, in our opinion, raises pure and simple questions of law. Therefore, we do not know why the petitioners

should complicate matters for themselves by asking for a roving enquiry.

9. But the fact remains that the observations contained in para 9 of the impugned order are unwarranted. In an application for summoning certain witnesses and summoning the production of certain documents, a finding cannot be recorded that the petitioners in the application cannot be believed. Therefore, the observations should be treated as something not binding and the court should apply its mind independently in the final decision of the suit.

10. Therefore, with the above observation, that the findings recorded in para 9 should not be held against the petitioners and that they were wholly unwarranted, the Civil Revision 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

March 13, 2019
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