

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

**THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY
AND
THE HONOURABLE SRI JUSTICE T. VINOD KUMAR**

WRIT PETITION NO: 28813 OF 2019

Between:

Maru Sreesaran, S/o. M. Sudhakar Reddy, Age. 34 yrs, Occ. Business, R/o. No. 66A, 3RD Cross, Collector Colony, Aminjikarai, Chennai

...PETITIONER

AND

1. Magma Fincorp Limited, Mandhana Towers, Room No. 301-302, 3rd Floor. DK Road, Ameerpet, Hyderabad - 500016

Also at:

Development House, 24 Park Street, Kolkata - 700016

2. Srinivas Rao Thotakura, S/o. not known, Age. Major, Occ. not known, previously resident of H. No. 7-3-292/2, Plot No. 3, Khanapuram Haveli, Gram Panchayat, Khammam

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the 1st Respondent in not issuing a sale certificate and implementing the sale conducted by it in furtherance of its notice of sale by private treaty dated 10/09/2019 and in further seeking to indulge into a settlement with the 2nd Respondent / Borrower pursuant to the said sale, upon the Orders dated 25/11/2019 passed by the Learned DRT-I, Hyderabad in SA No. 134 of 2019 and to further declare the said order dated 25/11/2019 passed by the Learned DRT-I, Hyderabad in SA No. 134 of 2019 as illegal, arbitrary, unconstitutional, apart from being violative of the SARFAESI Act, 2002 and the Security Interest (Enforcement) Rules, 2002 and unconstitutional and set aside the same and consequently direct the 1st Respondent to forthwith issue a sale certificate in favour of the Petitioner by handing over the possession of the schedule property purchased through private treaty in furtherance of the notice dated 10/09/2019.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 1st Respondent to issue a sale certificate by handing over the possession of the scheduled property in furtherance of the notice dated 10/09/2019, pending disposal of the writ petition.

IA NO: 2 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in SA No. 134 of 2019, before DRT-I, Hyderabad, including the order dated 25/11/2019 passed by the Learned Tribunal, pending disposal of the writ petition.

Counsel for the Petitioner: SRI. PASHAM MOHITH

Counsel for the Respondent No. 1: SRI. S. KESHAVA RAO

Counsel for the Respondent No. 2: SRI. KOWTURI PAWAN KUMAR

The Court made the following:

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
HON'BLE SRI JUSTICE T.VINOD KUMAR

Writ Petition No.28813 of 2019

ORDER: *(per Hon'ble Sri Justice A.Rajasheker Reddy)*

This Writ Petition is filed challenging the action of the 1st respondent in not implementing the sale conducted by it in furtherance of its notice of sale by private treaty dated 10.09.2019 and in seeking to indulge into a settlement with the 2nd respondent/borrower pursuant to the said sale upon the orders dated 25.11.2019 passed by the Debt Recovery Tribunal-1, Hyderabad (for short 'the Tribunal') in S.A.No.134 of 2019, as illegal, arbitrary and for consequential directions.

2. It is the case of the petitioner that pursuant to the newspaper advertisement published by the 1st respondent on 10.09.2019 in Business Standard, Hyderabad Edition for sale of an immovable property vide H.No.7-3-292/2, situated in RS No.279, covered by Plot No.3 of Kannapuram Haveli Grama Panchayat, Khammam Mandal (for short 'the subject property'), the petitioner submitted an application on 25.09.2019 intimating his willingness to purchase the subject property for an amount of Rs.1,44,00,009/- and paid an amount of Rs.15,00,000/- as advance. The 1st respondent sent a communication dated 26.09.2019 to the petitioner confirming the offer made by him so also the sale consideration and called upon the petitioner to pay 25% of the sale consideration. The petitioner paid an amount of Rs.21,00,000/- to the 1st respondent towards 25% of the sale consideration on 27.09.2019 and also paid an amount of Rs.85,00,000/- on 11.10.2019 and remaining amount of Rs.23,00,000/- through demand draft dated 18.10.2019. After making

payment of entire sale consideration, when the petitioner insisted for inspection of the subject property as well as for issuance of receipts for the amounts paid, the 1st respondent informed him about filing of S.A.No.134 of 2019 by the 2nd respondent before the Tribunal, wherein an interim order had been passed in favour of the 2nd respondent on 22.04.2019, which was not complied with by him, as such, the conditional interim order was deemed to have been vacated. The petitioner was informed about issuance of final notice on 15.10.2019 against the 2nd respondent intimating him to remove the belongings and movables from the subject property. The petitioner was further informed about the order passed by the Tribunal on 25.11.2019, wherein the Tribunal directed the 2nd respondent to repay the outstanding amounts and also directed the 1st respondent to accept the same in full within one month. Aggrieved by the order of the Tribunal, the 1st respondent preferred a Statutory Appeal before the Debt Recovery Appellate Tribunal, Calcutta, which is pending. The 1st respondent issued a notice under Rule 8(6) of the Enforcement Rules, 2002 before which the 2nd respondent had an opportunity of redeeming the subject property by making payment of the outstanding amounts, but no amounts were paid by the 2nd respondent, thereby forfeited his right to make any claims for redemption of the subject property. The petitioner purchased the subject property after lapse of 15 days, by paying full sale consideration, which was accepted by the 1st respondent as final sale price. Non-issuance of the sale certificate does not affect the sale conducted by the 1st respondent, as such, the 2nd respondent cannot offer to make any payment to the 1st respondent and the 1st respondent is not entitled to receive the said amounts, as the subject property was already sold to the petitioner. Therefore, the

2nd respondent does not have any right whatsoever to claim any right to redemption of property.

3. Counter affidavit is filed by the 1st respondent admitting all the averments made in the affidavit filed in support of the writ petition but denied the allegation that the 1st respondent has accepted to receive the amounts from the 2nd respondent basing on the impugned order dated 25.11.2019 of the Tribunal. The 2nd respondent is the principal borrower and his wife was the co-borrower for the loan facility to a tune of Rs.1,10,00,000/- availed from the 1st respondent. As the 2nd respondent failed to repay the loan amount, his account was declared as 'Non-Performing Asset' (NPA) and by invoking the provisions of the Act, 2002, issued paper publication on 01.04.2019 calling upon the general public that the subject property was put on auction on 24.04.2019. Aggrieved by the said paper publication, the 2nd respondent filed Securitization Application i.e., S.A.No.134 of 2019 before the Tribunal, in which interim order was granted on 22.04.2019, wherein and whereby, the 2nd respondent was directed to deposit 30% of the due amount within three weeks, out of which initial 15% was to be deposited in a week and balance 15% was to be deposited in next two weeks. In spite of such conditional stay granted by the Tribunal, the 2nd respondent failed to pay the said amounts, due to which the conditional stay granted by the Tribunal got vacated. Since there were no orders passed by any judicial authority restraining the 1st respondent from disposing of the property, the 1st respondent once again caused paper publication on 10.07.2019 calling upon bidders to participate in open auction on 30.07.2019, in spite of the same, no prospective purchaser came forward to participate in the e-auction, which was conducted on 30.07.2019. Subsequently, the 1st

respondent issued another paper publication on 10.09.2019 for selling the property under private treaty, to which the petitioner responded and paid entire sale consideration in accordance with the provisions of the Act of 2002. The Tribunal, without considering the fact that the subject property was sold through private treaty and the borrower/2nd respondent has no authority for redemption of the subject property, passed impugned orders on 25.11.2019. Aggrieved by the same, the 1st respondent preferred statutory appeal before the DRAT, Calcutta, which is pending and sought for setting aside the impugned order dated 25.11.2019 passed by the Tribunal.

4. Counter affidavit is filed by the 2nd respondent denying the averments in the affidavit filed in support of the writ petition stating that he is not aware of the paper publication dated 10.09.2019 issued by the 1st respondent for sale of the subject property. He is also not aware of the offer made by the petitioner and acceptance by the 1st respondent in respect of sale of the subject property through private treaty so also the receipt of entire sale consideration of Rs.1,44,00,009/- thereof and that against sale notice dated 01.04.2019, S.A.No.134 of 2019 is pending before the Tribunal. The sale of the subject property through e-auction under private treaty is against the provisions of the Act of 2002. Due to domestic problems, the 2nd respondent could not comply with the conditional order passed by the Tribunal on 22.04.2019 in S.A.No.134 of 2019, but it is mentioned in the interim order that e-auction dated 23.04.2019 will be subject to result of main SA since the validity of the proceedings are under challenge before the Tribunal, as such, e-auction proceedings are not sustainable. This writ petition is filed by the petitioner in collusion with the 1st respondent only to deprive the 2nd respondent of

his property. It is also stated that the 2nd respondent was ready and willing to pay Rs.80 lakhs at the time of passing impugned order dated 25.11.2019 and the 1st respondent was ready to accept the same. The 2nd respondent came to know about filing of the writ petition so also the filing of Statutory Appeal before the DRAT, Calcutta against order of the Tribunal dated 25.11.2019. Though the 2nd respondent filed application i.e., I.A.No.3336 of 2019 on 16.12.2019 seeking permission to deposit the outstanding dues before the Tribunal, the 1st respondent did not accept the same. It is asserted that though the 2nd respondent was ready and willing to clear of the dues on 31.10.2019 i.e., much prior to passing of the impugned order, the 1st respondent conducted auction in violation of the Act of 2002. As per the impugned order dated 25.11.2019, though the 2nd respondent was ready to pay the total dues, the same was not accepted by the 1st respondent, as such, sought for dismissal of the writ petition.

5. Rejoinder is filed to the counter affidavit filed by the 2nd respondent denying the averments therein stating that the respondents in connivance with each other obtained impugned order dated 25.11.2019 in S.A.No.134 of 2019, though the 2nd respondent had no right of redemption considering that the sale was already concluded in favour of the petitioner. The redemption of the subject property by the 2nd respondent is legally barred by virtue of Section 13(8) of the Act of 2002. S.A No.134 of 219 filed by the 2nd respondent challenging the e-auction notice dated 01.01.2019 is illegal and in fact, e-auction notices were issued on several occasions vide 19.01.2019, 01.04.2019, 11.05.2019, 12.06.2019 and 10.07.2019 and on all such occasions, no bidders were forthcoming. As such, final notice for private treaty was published on 10.09.2019. It is asserted that non-

challenge to private treaty notice by the 2nd respondent is illegal. The Tribunal cannot pass any orders in S.A.No.134 of 2019 since the present sale is not being conducted under the said auction notice which is the subject matter of the S.A. The 2nd respondent was aware of the private treaty and purchase of the subject property by the petitioner. The 2nd respondent does not have any right to redemption pursuant to the auction notice/private treaty notice issued by the 1st respondent, by following the procedure envisaged under the Act of 2002. The order dated 31.10.2019 of the Tribunal is illegal and is in clear violation of Section 13(8) of the Act. The reserve price was never challenged when the initial notice for e-auction was issued by the 1st respondent in January, 2019. The sale conducted in favour of the petitioner by the 1st respondent is legal and valid, which is not challenged by the 2nd respondent before any forum, as such, the same is binding on all the parties.

6. Heard Sri Pasham Mohith, learned counsel for the petitioner, Sri S.Keshava Rao, learned Standing Counsel for the 1st respondent and Sri Kowturi Pawan Kumar, learned counsel for the 2nd respondent.

7. Learned counsel for the petitioner, while reiterating the averments in the affidavit filed in support of the writ petition submits that pursuant to issuance of notice under Rule 8(6) of the Enforcement Rules, 2002, the 2nd respondent does not possess any right under the Act of 2002 to claim redemption of the property. He submits that when the petitioner, who is auction purchaser paid full sale consideration, the impugned order of the Tribunal directing the 1st respondent to accept full amount from the 2nd respondent, after the 2nd respondent lost right of redemption, is illegal and erroneous. He also submits that S.A.No.134 of 2019 filed by the 2nd respondent against e-

auction notice dated 01.04.2019 has become infructuous, since the sale could not take place. He also submits that the 2nd respondent has also not complied with the interim order dated 22.04.2019, wherein the 2nd respondent was directed to deposit 30% of the outstanding amount, as such, the 1st respondent again issued paper publication on 10.07.2019 fixing the date of auction on 30.07.2019 and that there is no prospective purchaser for the subject property. He submits that the 1st respondent again issued paper publication on 10.09.2019 for selling the property through private treaty, as such, granting of impugned order dated 25.11.2019 by the Tribunal, is impugned in the writ petition. He submits that even though the 2nd respondent has knowledge about the paper publication on 10.09.2019, he has not come forward to pay the balance loan amount to the 1st respondent. He also submits that the 2nd respondent has also not raised any specific plea regarding violation of any provisions of the Act of 2002 in concluding the sale except making omnibus allegations.

8. On the other hand, learned counsel for the 1st respondent submits that the 1st respondent never agreed before the Tribunal for receiving entire amount as by that time, the 1st respondent received entire sale consideration from the petitioner, in pursuant to sale under private treaty, but the Tribunal erroneously recorded the facts while granting order dated 25.11.2019. He also submits that aggrieved by the said order, the 1st respondent also preferred an appeal before the DRAT, Calcutta and same is pending. He contended that the 2nd respondent is dragging on the matter for payment of loan amount and that in spite of auction being conducted twice, there is no prospective purchaser, as such, the 1st respondent issued paper publication for sale of the subject property through private treaty. Since the petitioner

has come forward for purchasing the subject property for valid consideration, the sale was concluded in his favour, as he paid entire sale consideration, as such, the 2nd respondent has lost the right of redemption. He also submits that the 2nd respondent has not come forward to pay the amount in pursuance to Section 13(2) and 13(4) of the Act of 2002 and before publication of notice thrice under Section 8(6) of the Act, as such, the impugned order in the writ petition passed by the Tribunal is illegal.

9. Learned counsel for the 2nd respondent, while reiterating the averments in the counter affidavit, submits that no notice was issued as per Rule 8(5) of the Rules giving 30 days time for payment of the loan amount. He submits that even though the 2nd respondent was ready and willing to pay the entire amount, but the 1st respondent refused to receive the same. He also submits that the S.A.No.134 of 2019 is pending, neither the petitioner nor the 1st respondent informed about the confirmation of sale through private treaty before the Tribunal though the petitioner was ready to pay Rs.50 lakhs by 31.10.2019 and another Rs.30 lakhs by 18.01.2020, as such, no interference is called for with the impugned order. He submits that the 1st respondent under-valued the subject property and in collusion with the petitioner, sold the same through private treaty, which is illegal.

10. In view of rival contentions of the parties, the point that arises for consideration is whether the Tribunal is justified in passing the impugned order dated 25.11.2019 in S.A.No.134 of 2019 permitting the 2nd respondent to pay entire auction amount?

11. It is an admitted fact that the 2nd respondent being the principal borrower and his wife being the co-borrower, obtained loan to a tune of

Rs.1,10,00,000/- from the 1st respondent. Since the 2nd respondent defaulted in making payment of loan amounts, his account was declared as NPA. In order to recover the loan amount, the 1st respondent intends to dispose of the same through public auction, got issued paper publication notice dated 01.04.2019 under Section 13(4)/14 of the Act of 2002, fixing the date of auction as 23.04.2019. Challenging the said auction notice, the 2nd respondent preferred S.A No.134 of 2019 before the Tribunal, wherein the Tribunal granted interim order on 22.04.2019. The operative portion of the said order reads as under:

"The issues raised by the petitioner would be dealt with upon filing counter and documents by the Respondent Bank. However, this Tribunal is not inclined to interfere with the sale proceedings initiated by the Respondent Bank against the petitioner schedule property under the e-Auction Sale notice dated 01.04.2019. Accordingly, the Respondent Bank may go ahead with the auction of the petition schedule property as scheduled on 23.04.2019 but not to confirm the same in favour of the highest bidder in the auction sale of the petition schedule property in pursuance of the e-Auction Sale Notice dated 01.04.2019 subject to the petitioner depositing 30% of the outstanding dues as claimed in the Sale Notice in two instalments-1st installment of 15% within one week from the date of this order and 2nd installment of 15% within two weeks thereafter directly with the Respondent Bank. In case of failure of compliance of any of the above conditions by the petitioner, the interim stay shall stand vacated and the Bank is at liberty to confirm the sale in favour of the highest bidder in respect of the schedule property and the said sale shall be subject to the result of the S.A."

12. A perusal of the aforesaid order goes to show that the Tribunal granted interim stay, on condition of the 2nd respondent paying 30% of the outstanding dues within three weeks, in two installments of 15% each. According to the learned counsel for the 1st respondent, the 2nd respondent has not complied with the said conditional interim order, as such, the stay got automatically vacated after a period of three weeks from 22.04.2019. Even according to the 2nd respondent, he has categorically admitted in his counter that due to personal problems, he could not comply with the conditional stay order. Thereafter, the 1st respondent again issued paper publication on and 10.07.2019 for sale of the subject property fixing the date of auction as 30.07.2019, but

there were no prospective bidders forthcoming for the subject property. As such, the 1st respondent got issued final notice on 10.09.2019 for sale of the subject property through private treaty. The petitioner consulted the 1st respondent and offered to purchase the subject property through private treaty for an amount of Rs.1,44,009/- towards total sale consideration, which was confirmed by the 1st respondent vide communication dated 26.09.2019 to the petitioner.

13. Now, it is to be seen whether the 2nd respondent has got knowledge about issuance of paper publication dated 10.09.2019 for sale of subject property through private treaty. It is the specific contention of the 1st respondent that they have issued notice of sale through private treaty on 10.09.2019 under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002. In the counter affidavit filed by the 2nd respondent only an omnibus denial is made with regard to non receipt of notice dated 10.09.2019. It is pertinent to note here that after issuance of notice of sale dated 01.04.2019, the 1st respondent had also issued notices of sale on several occasions including the notice dated 10.07.2019 fixing the date of auction as 30.07.2019. As there were no bidders, the auction could not be conducted, as such, the notice of sale dated 10.07.2019 as well as previous notice dated 01.04.2019 have become infructuous. That apart, the 2nd respondent also failed to comply with the conditional stay order granted on 22.04.2019 in S.A.No.134 of 2019 and admittedly, no order of the Tribunal is brought to the notice of this Court about the extension of time for complying the conditional order dated 22.04.2019, as such, it is deemed that the 2nd respondent failed comply the said conditional order. In order to realize the debt, the 1st respondent has issued notice of sale through private treaty on 10.09.2019, to which, the petitioner

responded and purchased the same, after complying with the provisions of the Act of 2002. Having knowledge about the issuance of notice of sale through private treaty, the 2nd respondent kept quite and not challenged the same till date. Though the sale was confirmed in favour of the petitioner, the 2nd respondent neither chose to challenge the said sale nor the sale notice dated 10.09.2019. The impugned order passed by the Tribunal on 25.11.2019 has become infructuous, as the sale in respect of the subject property has been confirmed in favour of the petitioner on 26.09.2019 and petitioner also paid entire sale consideration by 18.10.2019.

14. The 2nd respondent cannot get any relief against sale through private treaty concluded between the petitioner and the 1st respondent, as the same was independent of the earlier sale notification issued by the 1st respondent, which is not the impugned in pending S.A before the Tribunal. The impugned order itself is beyond the scope of main S.A. The counter affidavit filed by the 2nd respondent is as vague as it can be. The 1st respondent has followed the procedure in conducting action in terms of Rule 8(6) of the Rules. The 2nd respondent could not point out any violation of the provisions of the Act of 2002 and the Rules made thereunder, as such, the question of the Tribunal passing the impugned order does not arise. Even otherwise, the 2nd respondent cannot redeem the mortgaged property as notice under Rule 8(6) issued thrice and the last one being 10.09.2019 under private treaty. The 2nd respondent could have redeemed the subject property by paying entire amount on or before the date of notice of private treaty, i.e., 10.09.2019, but not after publication of auction notice through private treaty. Section 13(8) of the Act reads as follows:

[(8) Where the amount of dues of the secured creditor together with all costs, charges and expenses incurred by him is tendered to the secured

creditor at any time before the date of publication of notice for public auction or inviting quotations or tender from public or private treaty for transfer by way of lease, assignment or sale of the secured assets,—

(i) the secured assets shall not be transferred by way of lease assignment or sale by the secured creditor; and

(ii) in case, any step has been taken by the secured creditor for transfer by way of lease or assignment or sale of the assets before tendering of such amount under this sub-section, no further step shall be taken by such secured creditor for transfer by way of lease or assignment or sale of such secured assets.]

15. The aforesaid provision is substituted by the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016 (44 of 2016) dated 16.08.2016, with effect from 01.09.2016 vide S.O.2831(E), dated 01.09.2016. Prior to substitution, sub-section (8) read as under:

"(8). If the dues of the secured creditor together with all costs, charges and expenses incurred by him are tendered to the secured creditor at any time before the date fixed for sale or transfer, the secured asset shall not be sold or transferred by the secured creditor, and no further step shall be taken by him for transfer or sale of the secured asset."

16. Admittedly, the sale notification was issued on 10.09.2019 and the impugned order was passed on 25.11.2019 and by that date, the petitioner has paid entire sale consideration to the 1st respondent and concluded the sale transaction through private treaty. In terms of the amended provisions of Section 13(8) of the Act, the right of redemption given to the borrower/2nd respondent would expire upon publication of such notice. Rule 8(6) of the Rules of 2002, stipulates that the thirty day notice period mentioned therein is for the purpose of enabling the borrower to redeem his property. Significantly, this provision remains unaltered. Statutory notice period of thirty days is sacrosanct and deviation therefrom would curtail the statutory right of redemption available to the borrower. (see **Mathew Varghese v. M.Amritha Kumar**¹) But, in the instant case, the 30 days notice has expired by 10.10.2019, i.e., from the date of issuance of notice

¹ (2014) 5 SCC 610

through private treaty on 10.09.2019. In view of the aforesaid amended provision, the right of redemption of the property by the 2nd respondent is before the date of publication of notice under private treaty, but not after publication of the same. In view of above, the 2nd respondent cannot have right of redemption of the subject property. As already discussed supra, the 2nd respondent failed to clear the dues to the 1st respondent, on three occasions and failed to redeem the property, as such, the impugned order is in violation of Section 13(8) of the Act of 2002.

17. Since the impugned order passed by the Tribunal is patently illegal and against the provisions of Section 13(8) of the Act and beyond the scope of S.A, the same is liable to be quashed. In **United Bank of India v. Satyawati Tandon and others [(2010) 8 Supreme Court Cases 110]**, the Hon'ble Supreme Court held as follows:

"46. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which (sic will) ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters."

The principle and analogy laid down by the Hon'ble Supreme Court in the aforesaid judgment also applies to the Tribunals.

18. Existence of alternate remedy is not a bar in entertaining the Writ Petition by this Court. In **Whirlpool Corpn. v. Registrar of Trade Marks, [(1999) 8 SCC 11]**, the Hon'ble Supreme Court held as follows:

"15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the

Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

In view of above facts and circumstances, writ petition is liable to be allowed and accordingly, the same is allowed setting aside the impugned order of the Tribunal dated 25.11.2019, by directing the 1st respondent to register the sale certificate in favour of the petitioner.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stands closed.

That Rule Nisi has been made absolute as above witness the Hon'ble Sri Raghvendra Singh Chauhan, The Chief Justice on this Thursday, The Third day of December, Two Thousand and Twenty.

Sd/- K. SAILESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Magma Fincorp Limited, Mandhana Towers, Room No. 301-302, 3rd Floor. DK Road, Ameerpet, Hyderabad - 500016 Also at. Development House, 24 Park Street, Kolkata - 700016
2. One CC to Sri. Pasham Mohith, Advocate [OPUC]
3. One CC to Sri. S. Keshava Rao, Advocate [OPUC]
4. One CC to Sri. Kowturi Pawan Kumar, Advocate (OPUC)
5. Two CD Copies.

PM

HIGH COURT

DATED:03/12/2020

ORDER

WP.No.28813 of 2019



Allowing the WP
Without costs.

*6^{SV} copies
Dt 10/12/2020*