

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU
&
THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA

Writ Petition No.28067 of 2022

ORDER: *(per Sri Justice D.V.S.S.Somayajulu)*

Heard learned counsel for the petitioners and Sri S. Satyanarayana Moorthy, learned Standing Counsel for respondent-Bank.

2. Sri Narsi Reddy, learned counsel appears for respondent No.3. He also adopts the arguments of Sri S. Satyanarayana Moorthy, learned Standing Counsel.

3. The grievance of the petitioners as expressed by the learned counsel is that there is a marked difference in the valuation of the property at the time of grant of the loan and at the time of the sale. He also relies upon the market value certificate issued by the Stamps and Registration department. Relying upon the Hon'ble Supreme Court's judgment in ***J.Rajiv Subramaniyan and another v. Pandiyas and others***¹, learned counsel asserts that bank should take into account the actual values and should not

¹(2014) 5 SCC 651

sell the property. He relies upon the para-18 of the said judgment.

4. In reply, Sri S. Satyanarayana Moorthy, learned Standing Counsel submits that the bank has obtained proper valuation. With regard to the differences in prices as indicated by the learned counsel, learned Standing Counsel draws the attention of this Court to para-12 of the counter affidavit filed wherein the bank has furnished its own reasons for the alleged differences in the value.

5. Considering the submissions made, this Court is of the opinion that there are disputed question of facts which cannot be decided in the enquiry, particularly under Article 226 of the Constitution of India. In addition, it is already recorded that the sale certificate has been registered and possession has already been delivered. An issue is raised by the learned counsel about the actual delivery of the possession. This is also a matter of evidence and it cannot be decided in these proceedings.

6. In view of the above and the settled law on the subject that a writ is not the proper remedy. The writ

petition is dismissed, leaving it open to the writ petitioners to pursue their legal remedies. No opinion is expressed on merits of the matter.

As a sequel, Miscellaneous Applications, if any, pending shall also stand dismissed.

JUSTICE D.V.S.S.SOMAYAJULU

JUSTICE DUPPALA VENKATA RAMANA

Date: 31.07.2023.
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