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APHC010295352025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3545]**
(Special Original Jurisdiction)

FRIDAY, THE 10th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT PETITION NO: 14989/2025

Between:

1. V AMASA REDDY, S/O. LATE CHENGALARAY REDDY AGED 40 YEARS, R/O. KOTHAMARI KUPPAM VILLAGE, SATYAVEDU MANDAL, TIRUPATI DISTRICT.

...PETITIONER

AND

1. THE CHIEF MANAGER AUTHORIZED OFFICER, INDIAN BANK, STRESSED ASSETS MANAGEMENT BRANCH CHENNAI, 2ND FLOOR, WELLINGTON ESTATE, ETHIRAJ SALAI, CHENNAI - 600 008.
2. THE ASSISTANT GENERAL MANAGER, INDIAN BANK, STRESSED ASSETS MANAGEMENT BRANCH, CHENNAI, 2ND FLOOR, WELLINGTON ESTATE, ETHIRAJ SALAI, CHENNAI - 600 008.
3. INDIAN BANK, REPRESENTED BY THE GENERAL MANAGER, H55 WELLINGTON ESTATE,II FLOOR, ETHIRAJ SALAI,EGMORE ,CHENNAI 600008 . RESPONDENT NO.3 WAS INCORPORATED AS PER C.O.DT.24.06.2025 IN W.P.NO.14989 OF 2025.

...RESPONDENT(S):

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 tomay be pleased to issue a Writ or Order or direction more

particularly one in the nature of Writ of Mandamus declaring the action of the respondents in neither handing over the subject property admeasuring Ac.0.40 Cents in Sy.No.177/1P and 177/2P of Sri Kalahasthi Town, Sri Kalahasthi Mandal, Tirupati District, purchased by the petitioner, nor refunding the total auction amount of Rs. 1,30,50,000/- and registration charges of Rs.9,78,970/- paid by the petitioner, along with interest, despite several representations by the petitioner, as illegal, arbitrary, unjust and violative of Articles 14,21 and 300-A of the Constitution of India, Consequently direct the respondents herein, either to handover the subject property admeasuring Ac.0.40 Cents in Sy.No. 177/IP and 177/2P of Sri Kalahasthi Town, Sri Kalahasthi Mandal, Tirupati District, purchased by the petitioner, or refund the total auction amount of Rs. 1,30,50,000/- and registration charges of Rs.9,78,970/- paid by the petitioner, along with interest @ 24 percent p.a. from 16.10.2021 till date of realization, to the petitioner and pass such

IA NO: 1 OF 2025

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 may be to direct the respondents to either to handover the subject property admeasuring Ac.0.40 Cents in Sy.No.177/1P & 177/2P of Sri Kalahasthi Town, Sri Kalahasthi Mandal, Tirupati District, purchased by the petitioner, or refund the total auction amount of Rs. 1,30,50,000/- and registration charges of Rs.9,78,970/- paid by the petitioner, along with interest @ 24% p.a. from 16.10.2021 till date of realization, to the petitioner, pending disposal of the writ petition and pass such

Counsel for the Petitioner:

1. V VINOD K REDDY

Counsel for the Respondent(S):

1. SREEDHAR VALIVETI

The Court made the following:

THE HONOURABLE SRI JUSTICE BATTU DEVANAND

And

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

W. P. No.14989 of 2025

O R D E R: *(Per Hon'ble Sri Justice A. Hari Haranadha Sarma)*

Introductory:-

The writ petitioner is an auction purchaser of the property admeasuring Ac.0.40 Cents in Sy.No.177/1P & 177/2P of Sri Kalahasthi Town, Sri Kalahasthi Mandal, Tirupati District. Contending that, he is facing hardships in getting delivery of property purchased under e-auction conducted by the Creditor Bank (1st respondent), in view of the objections of the Kalahasthi Municipality pursuant to the implementation of the directions of the Hon'ble High Court in W.P.No.2430 of 2019, and the pendency of the Suit in O.S.No.15 of 2022 on the file of X Additional District And Sessions Judge, Tirupati, the W.P.No.14612 of 2022, and also W.P.No.4381 of 2025, he is not inclined proceed with the delivery of possession, and he wants refund of total Rs.1,30,50,000/- deposited and registration charges of Rs.9,78,970/- with interest @24% p.a., prays for direction to the respondents to that effect.

Case of the Writ Petitioner:-

2. [i] Pursuant to the paper publication of the auction Notice/Sale Notice dated 14.08.2021 for sale of the subject property, the writ petitioner

participated in the e-auction, conducted on 03.09.2021, became a successful bidder for the bid amount of Rs.1,30,50,000/-, remitted 25% on 04.09.2021 (including 10% already deposited with MSTC), letter dated 16.09.2021 was issued for remittance of balance. Accordingly, he remitted the same and the Sale Certificate dated 05.10.2021 was issued and registered in his favour. A Registered Sale Deed was also executed on the file of SRO, Sri Kalahasti, on payment of Rs.9,78,970/- towards stamp duty and registration charges. Possession Certificate dated 13.11.2018 was also handed over, informing that the possession was taken by Bank and the same is handed over. But to the shock of the petitioner, he received Notice in O.S.No.15 of 2022 on the file of X Additional District and Sessions Judge, Tirupati, filed by one Mr.Kalapati Babji and two others, against the petitioner, the respondent Bank and the principal borrower and for cancellation of sale deed. The pendency of litigation and consequences of the litigation were not informed to the writ petitioner. The writ petitioner has addressed a letter dated 14.02.2022 to the 2nd respondent-Bank people, bringing the matter to their notice about the litigation, asking to refund of auction amount. There was no response. Further, the writ petitioner has received a letter from the Commissioner, Sri Kalahasthi Municipality, stating that the subject premises is a vacant land belonging to Sri Kalahasthi Municipality, and that pursuant to the orders dated 18.11.2020 in W.P.No.2430 of 2019 the petitioner was directed not to interfere with the same.

[ii] The writ petitioner has also initiated a complaint vide C.No.517/CCB/COP/Visitor/2022 dated 04.05.2022 through CCTNS portal, but no action is taken. He has also addressed another letter dated 04.08.2022 to the respondents for refund of the auction amount with interest. There is no response.

[iii] The plaintiffs in O.S.No.15 of 2022 on the file of X Additional District and Sessions Judge, Tirupati have filed W.P.No.14612 of 2022 for cancellation of Pattadar Passbooks and Title deeds issued in favour of the principal borrower, the said writ petition is pending. Plaintiffs in the Suit have also filed an ROR appeal before the RDO, Sri Kalahasthi, challenging the Pattadar Passbooks and Title deeds of the principal borrower.

[iv] The writ petitioner made representations dated 19.04.2023, 22.12.2023, and 22.03.2024 to the 2nd respondent explaining hardships. The 2nd respondent Bank issued a letter dated 15.07.2024 stating that steps were being taken for refund of the auction sale price in consultation with higher authorities. But there is no progress. However, the respondents filed W.P.No.4381 of 2025 seeking a direction for issuance of NOC from the Sri Kalahasthi Municipality to facilitate in handing over the possession to the petitioner herein and the same is also pending.

[v] The writ petitioner purchased the subject property with the hope of reselling and earning some financial benefit, he has borrowed huge amounts from various commercial lenders but legal complications stated

above made him to suffer. He has almost become bankrupt and he has exhausted all his savings in view of this investment and litigation. He is forced to get his other properties pledged, mortgaged and borrow amount from friends and relatives etc.. Thus, his sufferance is inexplicable. Hence, he is entitled for refund of hard earned money kept with the bank for (4) years with interest.

Case of the respondents:-

3. [i] The petition allegations are in correct.

[ii] One T.Surendra Kumar Reddy, has approached for loan from the respondent Bank, Rs.300.00 Lakhs loan was sanctioned. Borrower was a proprietary concerned. Wife of the proprietor of the borrower, one T. Usha Shree stood as co-obligant-cum personal guarantor.

[iii] The respondent Bank in furtherance of recovery of proceedings in terms of the SARFAESI Act has conducted e-auction of the vacant land. The writ petitioner has become successful bidder for a reserved price of Rs.130.50lakhs. The Sale Certificate was registered.

[iv] The principal borrower challenged the sale before the DRT, Chennai vide S.A.No.312 of 2021, which was later re-numbered as TSA 221/2022 and the said appeal was dismissed on 28.06.2023.

[v] The principal borrower filed appeal in DRAT, Chennai as AIR No.1023/2023, and the same was posted on 21.06.2024 and subsequently, it

was dismissed for non-payment of precondition deposit for admission of the appeal.

[vi] Meanwhile, the Sri Kahalasti Electricity Employee's Co-operative House Building Society, Sri Kalasthi, Chittor District, filed a Writ Petition vide W.P.No.2430 of 2019 against the Tahsildar, Sri Kalahasthi Mandla and the Commissioner, Sri Kahalasthi Municipal Corporation, with the following prayer:-

> "For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a of Mandamus declaring the action of the 2nd Respondent herein in allowing the illegal constructions in the open space earn marked for park in sanctioned layout vide L.P. No. 275/82 in Sy. No. 177/1 and 177/2 Thottambedu Village, Srikalahasti, Chittoor District as illegal, arbitrary, unreasonable, without jurisdiction, contrary to the provisions of Hyderabad Municipal Corporation Act, 1956, contrary to the G.O.Ms. No. 72 dated 20-02-2002 and also contrary to the Judgments of the Hon'ble High Court and also contrary to the Judgments of the Hon'ble High Court and the Hon'ble Apex Court and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case".

This Court upon hearing on both sides, passed orders on 18.11.2020, as follows:

> "1. Sri N. Ranga Reddy, learned Standing Counsel for the 2nd respondent appears and states that the Municipality is prepared to look into the issue raised in the writ petition as per the proceedings of law and after giving notice to all concerned. Noting the said submission of learned Standing Counsel, this Court is of the view that nothing further survives for consideration.
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> 2. As the Writ is of the year 2019, the respondents are directed to give notice to all the concerned and take necessary action as required under law and complete the same within a period of four weeks from the date of receipt of a copy of this order.

> 3. The writ petition, with the above direction, is disposed of. There shall be no order as to costs. As a sequel, interlocutory applications pending if any in this case, shall stand closed."

[vii] The directions in the W.P. No.2430 of 2019 is to take necessary action, curbing illegal constructions in the open space earmarked for park in sanctioned layout. But the Commissioner, Sri Kalahasthi Municipality has addressed a letter to the District Collector, Tirupathi with a direction not to issue NOC to the petitioner Bank. Thus, it is clear that the Commissioner have wrongly implemented the orders of the Court, whereby the respondent Bank not in a position to hand over the possession to the auction purchaser / the writ petitioner. Questioning the same, the bank has filed W.P.No.4381 of 2025 much prior to the present writ petition.

[viii] Therefore, the apprehension of the writ petitioner is baseless, the sale proceeds are already adjusted to the loan account of the principal borrower, the bank is putting all efforts to resolve the pending litigations, and wrong interpretation of the orders passed in the Writ Petition, by the Commissioner, Sri Kalahasthi Municipality is questioned by way of separate Writ Petition. Therefore, there are no merits in the writ petition.

4. Heard both sides extensively.

5. Learned counsel for the writ petitioner would submit that the petitioner is facing so many problems and he is vexed with the litigation, and the relief prayed in the writ petition is just and equitable, in view of the unanticipated litigation and his financial difficulties and that there are any amount of lapses

on the part of the respondent-Bank. Four years of waiting of the petitioner, did not make him, to realise the fruits of his investment and he has no other alternative remedy.

6. Per contra, learned counsel for the respondent bank would submit that the Sale is completed, Sale Certificate has been registered, the Bank acted in all fairness and bonafidely, Bank is putting all its efforts to clear the pending litigations. The amount was already adjusted to the loan account. After purchase of the property, with regard to the litigations if any, the purchaser has to face and as on the date of Sale no clear litigation was pending. Therefore, the Writ Petition is liable to be dismissed.

7. Thoughtful consideration is given to the arguments advanced and Perused the material available on record.

Analysis:-

8. Following points are clear from record and the submissions made across the bar :-

i) As per the directions in the Writ Petition No.2430 of 2019 dated 18.11.2020 the Municipality, has to take necessary action against the illegal occupations and constructions etc..

ii) The respondent Bank filed W.P.No.4381 of 2025 questioning the proper implementation of the Orders passed in W.P.No.2430 of 2019 and the said writ petition is pending.

iii) The scope of the W.P.No.4381 of 2025 is touching the aspect of all compliance and interpretation of the orders in earlier Writ Petition, but the subject matter of earlier Writ Petition is relating to the possession in respect of the property said to have been ear-marked for a park.

iv) There is a Suit vide O.S.No.15 of 2022, pending on the file of X Additional District and Sessions Judge's Court, Tirupati.

v) Further, it appears that there is another Writ petition No.14612 of 2022, either directly or indirectly touching the subject property.

vi) The vendor has to set clear title in vendee, and in case of any defect in title, the vendee cannot be insisted to proceed and abide by the Sale of property with defective title.

vii) The principle of Caveat emptor (buyer beware) and its applicability to the Sale of immovable property, more so in respect of latent defects, canvassed by the Bank cannot be appreciated or accepted.

viii) Any buyer intends to purchase property, not the litigation. A series of litigations in respect of the property would cause frustration to any prospective buyer. Requiring such a purchaser to endure and contest the litigations alongside the vendor, particularly those initiated by third parties, cannot be appreciated.

ix) Several aspects and interests of different stakeholders are involved which are outside scope and jurisdiction of SARFAESI Act.

9. As per Section 55 (2) of Transfer of Property Act –

> "The seller shall be deemed to contract with the buyer that the interest which the seller professes to transfer to the buyer subsists and that he has power to transfer the same."

10. Defects in title are latent defects. In the absence of words to the contrary in sale deed, the presumption is that the seller is having title free from reasonable doubt. In case of non-disclosure of material defect, and in case of defect in title of the seller, cannot prevent the buyer to seek for relief for refund of their money etc..

11. Even in cases of flat buyers buying the flats and occupying the same with the full awareness that the revised plans for their flats have been rejected by the authorities, the Supreme Court held that only remedy available to the flat owners is to sue the sellers of the flats/developers, refund of their money or damages as observed in ***Esha Ekta Apartments Co-operative Housing Society Ltd. v. Municipal Corporation of Mumbai***[1].

12. There cannot be implied waiver on the part of the purchasers that they have purchased property with knowledge of clouds over the title and that they have to prosecute their remedies by way of litigation against all the litigating parties and that they cannot ask for refund of Sale consideration paid. If that principle is accepted, the same will amount to encouraging dishonesty. Therefore, the contention of the Bank that the writ petitioner is not entitled for

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[1] *AIR 2013 SC 1861*

the remedy of refund found not acceptable from the admitted fact situation in this case.

13. Generally, auction conducted by the Bank will give a general impression that the Bank might have verified the title with all clarity and certainty after having legal opinion. The public will opt for purchasing the same with the confidence and trust on the bank, but when they experience the litigation after investing all their life time savings, the sufferance, they experience is inexplicable and they deserve redressal. The Bank ought to have verified the title more thoroughly or ought to have put the property to sale after clearing all clouds over the title. There are lapses on the part of the Bank in failing to do what they ought to have done. The Suit in O.S.No.15 of 2022 may be after the Sale, but the Writ petition is much prior to the Sale. The question as to whether the subject property in all or part is meant for Park, is a clear subject matter of the undisclosed pending litigation by the date of sale, therefore, the writ petitioner is entitled to seek for refund of the money. However, the interest claimed at 24% p.a. is not proper. We feel that the petitioner is entitled for refund of the sale amount with interest @ 9% p.a., and also the stamp duty and registration expenses, from the date of deposit/payment with simple interest at the same rate.

14. In the result, the **Writ Petition is allowed** as follows:-

1) The Writ petitioner is entitled to refund of the bid amount of Rs.1,30,50,000/- with simple interest @9% per annum from the date of deposit and reimbursement of the Stamp duty and registration expenses of Rs.9,78,970/- together with simple interest at the same rate from the date of incurring till the date of payment to him.

2) Consequently, the Sale Certificate and the Sale Deed issued in favour of the writ petitioner shall stand set aside and respective entry shall be made by the registration office concerned, to that effect and the writ petitioner shall cooperate for the same.

3) Time for compliance is (30) days.

4) No order as to costs.

5) As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE A.HARI HARANADHA SARMA

Date: 10 .07.2026
Pnr

Whether the order is:

Speaking	√	Non-speaking	-
Reportable	-	Non-reportable	√

THE HON'BLE SRI JUSTICE BATTU DEVANAND

And

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

W.P. No.14989 of 2025

Dt. .10 07.2026

Pnr