

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.1776 of 2015

Date: 24-11-2015

Between:

Chennapola Ranga Rao

.... Petitioner

AND

Dasari Kasi Viswanadha Veera Venkata Satyanarayana

and another

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.1776 of 2015

ORDER:

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The petitioner herein is the judgment debtor in O.S.No.390 of 2004 on the file of Principal Senior Civil Judge's Court, Rajahmundry and the respondents-decree holders filed E.P.No.204 of 2010 for bringing the property to sale and the property was sold. The decree holder himself purchased the property in the auction after obtaining permission from the Court on 16-10-2014. On 21-08-2014, the petitioner filed E.A.No.881 of 2014 praying the Court to record compromise as per the receipt dated 22-07-2014 and the respondents filed a counter stating that the judgment debtor had to pay an amount of Rs. 5,55,998/- and requested for dismissing the application. Since the application was filed for recording Full Satisfaction, evidence was allowed on behalf of the petitioner and

three witnesses were examined. The respondent-decree holder examined as RW.1. The receipt was marked as Ex.A.1 dated 22-07-2014. After perusing oral and documentary evidence, the Executing Court dismissed the application of the petitioner by the order dated 25-02-2015, challenging which the present Civil Revision Petition is filed.

As stated above, the application by the petitioner was filed on 21-08-2014 when the matter was coming up for confirmation of sale. At this stage, the petitioner filed E.A.No.881 of 2014 stating that the respondent-decree holder received an amount of Rs.2,75,000/- on 22-07-2014 and passed a receipt towards full and final satisfaction of the amount, and accordingly, requested the Court to record the same. The respondent denied such receipt of amount. The petitioner was examined as PW.1 and stated that in the presence of one Koti Raja Sekhar and Urla Surya Rao, the receipt was prepared and at the panchayat office the cash was paid. The trial Court noticed that no permission was obtained from the Court to pay the same or to settle the matter with the respondent/decree-holder and he did not even inform his advocate prior to payment of the amount. The trial Court also noticed that another suspicious circumstance from the admission of the petitioner himself is that how he had come forward to deposit the warrant amount of Rs.5,57,000/- by way of lodgement before the court when the decree holder had agreed and received an amount of Rs.2,75,000/- and passed a receipt to that effect. The Executing Court observed that two witnesses examined by the petitioner gave two versions as to the execution of the receipt. Ultimately, the Executing Court dismissed the application with the following observations:

“.....As against their evidence led by the petitioner, respondent/D.Hr examined himself as RW.1 and denied the execution of Ex.A.1. Though RW.1 is subjected to cross-examination, no dent is found created against his statement made by him opposing the passing of the receipt under Ex.A.1. He categorically deposed that he had no objection to send the signature in Ex.A.1 to the expert for opinion. Admittedly, no steps have been taken by the petitioner to take Ex.A.1 to the expert for his opinion. The contention of the petitioner and the evidence let in by the petitioner throughout under this petition is not at all acceptable. On the other hand, it tend to support the contention of the respondent that in order to protract the

execution proceedings the petitioner has come up with this petition. In other words, the petitioner failed to prove the payment under Ex.A.1 receipt and the petition is devoid of merits and is liable to be dismissed.....”

In view of recording of evidence and scrutiny of the evidence let in by the petitioner, the finding recorded by the learned Principal Senior Civil Judge, Rajahmundry cannot be said to be erroneous and this Court is not inclined to interfere with the order dated 25-02-2015 passed by the learned Principal Senior Civil Judge, Rajahmundry in E.A.No.881 of 2014, and hence, the Civil Revision Petition is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. No costs.

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RAMALINGESWARA RAO, J

Date: 24-11-2015

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