

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELENGANA AND THE STATE OF  
ANDHARA PRADESH

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C.R.P.No.3233 of 2014

Between:

Vaddi Jhansi Lakshmi Bai

.....Petitioners

and

Chilukuri Basava Raju and others

.....Respondents

Date of Judgment pronounced : 13-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers : Yes/No  
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked :  
Yes/No  
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No  
Of the Judgment?

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA  
RAO**

**C.R.P.No.3233 of 2014**

**ORDER:**

Heard Sri Sreeman Narayana, learned counsel for the

petitioner, Sri Dasari SVVSV Prasad, learned counsel for 1<sup>st</sup> respondent.

2. This Revision Petition is filed challenging the Order dt.01-05-2014 in E.A.No.271 of 2009 in E.P.No.12 of 2009 in O.S.No.18 of 1991 of the Senior Civil Judge, Narasapuram.

3. The 1<sup>st</sup> respondent herein had filed the said suit against respondent Nos.2 and 3 and one Godavarthi Adilakshmi for specific performance of agreement of sale dt.06-01-1989 allegedly executed by 2<sup>nd</sup> respondent in his favour in respect of an extent of Ac.2.00 cts out of Ac.2.26 cts in R.S.No.369 /2 in Yalamanchili village, West Godavari District. In the said suit, respondent Nos.2 and 3 were set *ex parte* and the suit was decreed on 18-09-1997. Against the said decree, an appeal was filed by Smt.G.Adilakshmi which was allowed. It is not disputed that a registered sale deed in respect of Ac.1.00 cts in R.S.No.369/2 was executed by the Court in E.P.No.20 of 2006 on 04-03-2009. Thereafter, E.P.No.12 of 2009 was filed by 1<sup>st</sup> respondent seeking recovery of possession of the extent of Ac.1.00 cts of land by this sale deed 04-03-2009.

4. At that stage, the petitioner herein filed an application E.A.No.271 of 2009 under Section 47 CPC

alleging that at the time of her marriage, there was a promise to convey Ac.0.50 cts of land belonging to 2<sup>nd</sup> respondent to her, pursuant to which a registered settlement deed dt.20-08-2006 was executed in her favour by respondent No.2 delivering Ac.0.50 cts of land in R.S.No.369/2; that the E.P. schedule property in E.P.No.12 of 2009 filed by 1<sup>st</sup> respondent includes this property also; she is not a party to the decree; and she got knowledge of the said decree only when 1<sup>st</sup> respondent brought the Court Field Assistant for taking the delivery of the property. She contended that she raised an objection for delivery of the property and since she was advised to file a petition for adjudication of her right, title and interest over the E.P. schedule property, she has filed the said petition.

5. The 1<sup>st</sup> respondent filed a counter opposing the said application stating that he is the absolute owner of the property by virtue of the sale deed executed in his favour in execution of the decree dt.18-09-1997 in O.S.No.18 of 1991; the settlement deed dt.28-08-2006 allegedly executed by 2<sup>nd</sup> respondent in favour of the petitioner is not true and valid under law and does not bind him and it was brought into existence only to defeat and delay the execution of the decree. He contended that the petitioner has no right to object to delivery of the suit schedule property to him.

6. In the said E.P., the petitioner marked Exs.A-1 to A-4.

7. By order dt.01-05-2014, the Court below dismissed the E.A.No.271 of 2009 with costs. It held that it is not proper for the petitioner to claim any right over the E.P. schedule property on the basis of the settlement deed dt.28-08-2006 which was executed after the said O.S.No.18 of 1991 was decreed in his favour on 18-09-1997. It further held that the petitioner has not set up any independent title to the property, but she is tracing title only through her father, the 2<sup>nd</sup> respondent who suffered a decree therein, and her plea that she had no notice of the pendency of the suit, cannot come to her aid. It held that a transferee pendente lite of the interest of immoveable property which is subject matter of a suit will be bound insofar as that interest is concerned by orders in the suit. It held that merely because the petitioner is able to show that she is in possession of the property, she cannot resist eviction and 1<sup>st</sup> respondent is entitled to get possession of the property.

8. Challenging the same, this Revision Petition is filed.

9. Learned counsel for the petitioner contended that the agreement of sale dt.06-01-1989 on the basis of which the suit O.S.No.18 of 1991 was filed

was a fabricated document and the signature of the 2<sup>nd</sup> respondent therein is forged; that summons in the said suit were not served on the 2<sup>nd</sup> and 3<sup>rd</sup> respondents; therefore they were set *ex parte* and the decree was passed against them; and since the petitioner is not aware of the said proceedings, the decree therein is not binding on her.

10. Learned counsel for 1<sup>st</sup> respondent, on the other hand, supported the order passed by the trial Court and stated that 24 years after the filing of the suit O.S.No.18 of 1991, he is seeking to obtain delivery of possession of the E.P. schedule property; that the petitioner is bound by the decree obtained by him against respondent Nos.2 and 3; and since petitioner admits that the land settled on her by 2<sup>nd</sup> respondent forms part of the property, in respect of which, he has obtained the sale deed on 04-03-2009 through Court, the petitioner is not entitled to resist the execution of the decree or to obstruct the delivery of possession to him.

11. I have noted the submissions of both sides.

12. There is no dispute that respondent Nos.2 and 3, who are the father and brother of the petitioner, had suffered a decree in O.S.No.18 of 1991 and pursuant to the said decree obtained by 1<sup>st</sup> respondent, a registered sale deed was executed in favour of 1<sup>st</sup> respondent on

04-03-2009.

13. Therefore, the petitioner is bound by the said decree. Since she is a transferee pendente lite of the property which is subject matter of the suit, she is bound by the decree therein. I am therefore of the opinion that the Court below was right in rejecting E.A.No.271 of 2009 filed by the petitioner.

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

15. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 13-08-2015

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