

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.485 of 2009

ORDER :

This Revision is filed challenging the order dt.05.01.2009 in E.A.No.304 of 2008 in E.P.No.75 of 2006 in O.S.No.523 of 1998 on the file of I Additional Senior Civil Judge, Ranga Reddy District, L.B. Nagar, at Hyderabad.

2. The petitioner suffered a decree dt.30.11.2005 in the above suit filed by 1st respondent for recovery of possession of property which is subject matter of the above suit. The petitioner had filed an appeal A.S.S.R.No.4116 of 2007, which was initially returned with some objections, and it is now stated by both sides that the said appeal has been numbered.

3. In the mean time, E.P. was filed by 1st respondent for execution of the decree. In that application, E.A.No.304 of 2008 was filed by petitioner under Order 21 Rule 26 read with Section 151 C.P.C., praying the Court below to grant stay of E.P. and to enable petitioner to prosecute the appeal filed by it against the judgment dt.30.11.2005 in O.S.No.523 of 1998.

4. The Court below allowed the said application, but

while doing so, it directed petitioner to deposit a sum of Rs.6,75,000/- within one (01) month from the date of its order, and stayed the proceedings in the E.P. till then.

5. Challenging the same, this Revision is filed.

6. Heard Sri G. Narender Reddy, learned Standing Counsel for ZPS, MPPS (Telangana), and Sri B. Venkat Rama Rao, counsel for respondent.

7. The counsel for petitioner contended that this order is without jurisdiction since the executing court cannot go beyond the decree and convert a decree for eviction into a decree for payment of money, and merely stating that it is working out equities. This proposition of law is not disputed by the counsel for 1st respondent.

8. It is settled law that the executing court cannot go beyond the decree. So when the decree is for eviction, the Court below cannot direct the petitioner to deposit money as if the property in question had been acquired under the provisions of the Land Acquisition Act, 1894 and determine its market value in the execution proceedings. Therefore, the impugned order is totally without jurisdiction and it is accordingly set aside. The Revision is allowed. No order as to costs.

9. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-06-2015

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