

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.2045 OF 2010

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ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order, dated 08.04.2010, passed in I.A.No.Nil of 2010 in I.A.No.129 of 2010 in I.A.No.1391 of 2006 in O.S.No.82 of 1995 by the learned Senior Civil Judge, Gudivada.

The petitioner and respondent Nos.2 to 4 suffered final decree for sale of mortgaged property. In the auction proceedings, respondent No.5 has purchased the property, and the sale was confirmed and property was also delivered to him. Thereafter, on the ground that the application filed by the petitioner to set aside the default order, dated 05.10.2009, passed in the application to set aside the *ex parte* decree, is pending, the present application was filed seeking to direct the auction purchaser to permit him and his men to draw water from the property mortgaged and sold in his favour. The trial Court took an objection as to the maintainability of the application and after hearing the petitioner, by impugned order, dated 08.04.2010, dismissed the said application mainly on the ground that the right claimed by the petitioner goes beyond the scope of the Suit itself and it

gives a separate cause of action for filing Suit for declaration of his rights.

This revision petition was filed in the year 2010 and though this Court, by order, dated 08.10.2010, permitted the learned counsel for petitioner to serve notice on the respondents, proof of service is not yet filed for respondent Nos.1 to 4.

From a perusal of the impugned order, it is clear that after decreeing the Suit filed by respondent No.1 – Bank, the mortgaged property was sold in auction and the sale was confirmed in favour of respondent No.5. In that view of the matter, unless the very sale is set aside, the petitioner is not entitled to the relief as prayed for. Moreover, the relief sought for in the present application is beyond the scope of the Suit itself. In that view of the matter and in view of the reasons recorded by the trial Court, this Court do not find any merit in this revision petition, so as to interfere with the impugned order passed by the trial Court.

Accordingly, the revision petition is dismissed. Miscellaneous Petitions, if any, pending in this revision petition shall stand closed. No costs.

R.SUBHASH

REDDY, J

27th January, 2015

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