

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.1607 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is filed against the order dated 24.04.2014 in E.P.No.22 of 2009 in O.S.No.197 of 2006 passed by the IX Additional Senior Civil Judge (FTC), City Civil Court, Hyderabad.

The aforesaid suit filed by the petitioner herein against the respondents for recovery of Rs.8,60,000/- together with interest was decreed for a sum of Rs.7,70,000/- with costs and interest, by judgment and decree dated 31.03.2009. In execution of the said decree, E.P schedule property was sold on 19.03.2014 and auction purchaser has paid 1/4th of the amount on the date of sale and the balance 3/4th was paid on 03.04.2014. Respondent No.1 herein has filed a claim petition in E.A.No.64 of 2010 in the E.P., to declare her as the real and absolute owner of the E.P schedule property. By order dated 18.11.2013, the Court below dismissed the said E.A. Questioning the same, respondent No.1 herein filed CCCA.No.17 of 2014 before this Court. In miscellaneous petition being CCCAMP.No.73 of 2014 in the said CCCA, this Court, by order dated 03.04.2014, while declining to grant stay, has observed that the sale shall be subject to result of the appeal. Referring to such observation

made by this Court, the Court below has passed the impugned order in the E.P declining to confirm the sale.

Heard Sri V.Srinivas, learned counsel for the petitioner, and learned counsel appearing for the respondents.

Unless there is an order staying the execution of the proceedings in the E.P, the Court below would not have declined to confirm the sale, as much as the sale is already conducted on 19.03.2014, pursuant to which 1/4th of the amount was paid on the same day and balance 3/4th was paid on 03.04.2014. Mere observation of this Court in CCCAMP.No.73 of 2014 to the effect that the sale shall be subject to result of the appeal will not preclude the Court below from confirming the sale.

For the aforesaid reasons, the order under revision to the extent of refusing the confirmation of sale is set aside with a direction to the Court below to confirm the sale subject to the orders to be passed in CCCA.No.17 of 2014.

Accordingly, the Civil Revision Petition is allowed to the extent indicated above. No order as to costs.

The miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

R.SUBHASH REDDY, J

21.08.2015

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