

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

C.R.P.No.285 of 2015

Date : 13-2-2015

Between:

A. Suryakumar

.. Petitioner

And

Tallita Tyagi and others
Respondents

..

Counsel for petitioner : Mr. Peri Prabhakar

Counsel for respondents : --

The Court made the following :

ORDER:

This Civil Revision Petition arises out of order dated 7-7-2014 in E.A.No.335 of 2010 in E.P.No.228 of 2008 on the file of the learned Principal Senior Civil Judge, Ranga Reddy District.

I have heard Mr. Peri Prabhakar, learned counsel for the petitioner and perused the record.

The petitioner, who was added as defendant No.3 in O.S.No.446 of 1994 filed by respondent No.1, has suffered exparte decree. At the hearing, the learned counsel for the petitioner submitted that against the said decree his client has filed a Civil Miscellaneous Appeal and that the same has been heard and orders reserved. Respondent No.1 has filed E.P.No.228 of 2008 for execution of sale deed by respondent Nos.1 and 2 by way of execution of decree. The petitioner/defendant No.3 has filed E.A.No.335 of 2010 for incorporating his name as Judgment Debtor No.3 in E.P.No.228 of 2008. This application is dismissed by the lower court.

A perusal of the order of the lower Court would reveal that the main ground on which the petitioner's application has been dismissed is that when the E.P. is filed only against Judgment debtor Nos.1 and 2, the court cannot compel respondent No.1/plaintiff to seek such execution against the petitioner, who

is Judgment-debtor No.3. In my opinion, this reasoning cannot be perceived as unsound. If respondent No.1 has chosen Judgment debtor Nos.1 and 2 alone for execution of the sale deed, it would not cause prejudice to the interests of the petitioner/defendant No.3. So long as the decree passed against the petitioner remains in force, he cannot resist execution of the decree. If the petitioner succeeds in the Civil Miscellaneous Appeal, the rights accrued to respondent No.1/plaintiff will automatically cease to exist. In this view of the matter, I do not find any reason to interfere with the order passed by the lower Court.

The Civil Revision Petition is accordingly dismissed.

As a sequel to the dismissal of the Civil Revision Petition, CRPMP No.354 of 2015 filed for interim relief is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 13-2-2015

AM