

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

C.R.P.No.602 of 2015

ORDER:

Heard Sri K.S.Murthy, learned counsel for the petitioner and Sri B.Ravindra Reddy, learned counsel for the respondent.

2. The petitioner in this Revision Petition questioned the docket order dt.28-01-2015 in E.P.No.196 of 2014 in O.S.No.213 of 2013 passed by the I Additional Junior Civil Judge, Tanuku, whereunder the said Court recorded that the petitioner had refused to take notice under Rule 35 of Order 21 CPC and set him *ex parte* in the E.P.
3. Prior thereto, the E.P. had been filed on 03-12-2014 and a notice was directed to be served on 02-12-2014 on the J.Dr. directing the J.Dr. to deliver the schedule property as per the terms of the compromise/award of Lok Adalat dt.01-02-2014 in the said suit on payment of process.
4. A reading of the compromise/award of the Lok Adalat indicates that the petitioner was permitted to continue in possession of the suit schedule property till 30-10-2015 subject to payment of the rent agreed.
5. According to the petitioner, he has paid the rents agreed, which fact is disputed by the respondent. The decree indicates that only in default of payment of rents as agreed, the petitioner can be evicted from the property permanently.
6. According to the petitioner, the notice in the E.P. was not served on him at all. But according to the respondent, the petitioner had refused to receive such notice. However, I am not

inclined to go into the said aspect since I am of the opinion that the Court below was not correct in directing delivery of possession of the E.P schedule property to the respondent without conducting any enquiry into the question whether the petitioner had in fact paid the amounts as per the award of the Lok Adalat on 01-02-2014 or not.

7. Therefore, the Civil Revision Petition is allowed and the order setting the petitioner *ex parte* dt.28-01-2015 in the E.P.No.196 of 2015 is set aside and the said Court is directed to decide this E.P. on or before 15-10-2015 after hearing both sides. No costs

8. As a sequel, the miscellaneous petitions pending, if any, shall stands closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-10-2015

Note:-

Issue C.C. to both parties tomorrow.

B/o

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