

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

C.R.P.No.658 of 2010

ORDER:

This Revision Petition is filed challenging the Order dt.18-01-2010 in E.A.No.36 of 2007 in E.P.No.6 of 2007 in O.S.No.484 of 2002 of the Principal Junior Civil Judge, Chirala.

2. Petitioner is a third party to the suit. The suit was filed for recovery of possession of Ac.0.05 cts and 8 sq yds of site by the deceased-1st respondent against one Marapakula Sumathi and her sons and also against one Nakkala Ayyarappa, the father-in-law of the petitioner. It was decreed on 20-07-2006. Thereafter, E.A.No.36 of 2007 in E.P.No.6 of 2007 in O.S.No.484 of 2002 under Section 47 CPC was filed by petitioner to determine the question whether the plaint schedule property is part of the E.P. schedule property; to declare the right, title and interest of the petitioner over the subject land; and to declare that the decree passed therein is null and void and unenforceable.

3. By order dt.18-01-2010, the Court below dismissed the said E.A. No.36 of 2007.

4. Challenging the same, this Revision Petition is filed.

5. Admittedly, the petitioner is not a party to the suit. Section 47 (1) CPC states:

“Section 47 - Questions to be determined by Court executing decree:

(1) All questions arising between the parties to the suit in which the decree was passed, or their, representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit.”

6. Since the petitioner is not a party to the suit, the petitioner could not have maintained the application under Section 47 CPC and the Court below could not have entertained it.

7. Therefore, I am of the opinion that there is no merit in the Revision Petition and the same is accordingly dismissed giving liberty to the petitioner to avail any appropriate remedy available to her at law. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-06-2015

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