

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.Nos.3664 and 3667 OF 2015

COMMON ORDER :

Since these civil revision petitions arise out of same cause of action, they are being disposed of by way of this common order at the stage of admission.

The petitioner herein is the Judgment Debtor-defendant, the 1st respondent herein is the Decree Holder-plaintiff and the 2nd respondent herein is the auction purchaser. The 1st respondent herein filed O.S.No.454 of 2011 before the IV Additional Senior Civil Judge, Guntur for recovery of money and the same was decreed on 15.11.2011 for an amount of Rs.2,25,660.50ps with subsequent interest @ 6% per annum on Rs.2,00,000/-. The 1st respondent herein filed E.P.No.23 of 2013 and in pursuance of the same, the property of the petitioner herein was brought to sale. After confirmation of the sale, the petitioner herein filed E.A.No.451 of 2014 to set aside the sale and E.A.No.452 of 2014 seeking permission to deposit the warrant amount before the Court. The trial Court dismissed the said applications by a reasoned order on 14.07.2015. Challenging the same, the present revision petitions are filed.

The petitioner is working as teacher. As he did not contest the suit, an exparte decree was passed on 15.11.2011. The petitioner herein did not contest the execution petition filed by the 1st respondent herein. The property was auctioned on 03.07.2014 and the 2nd respondent herein became successful bidder for an amount of Rs.17,25,000/-. The 2nd respondent herein paid an amount of Rs.4,31,250/- towards 1/4th of the auctioned amount on the same day and subsequently deposited balance amount. The

sale was confirmed on 09.09.2014 and execution petition was closed. Thereafter, the petitioner herein filed E.A.Nos.451 and 452 of 2014 and the same were dismissed by holding as follows:

“As seen from docket orders in E.P.23/2003, it appears that sale notice was served to Judgment debtor and he was set exparte on 11.3.2013. It is not explained by the Judgment Debtor why he did not take steps to set aside the exparte orders passed against him in E.P.23/2013 after he was recovered from health by 31.7.2014 until the E.P.23/2013 was closed dated 9.9.2014. It is also not explained by the petitioner herein now he is entitled to file this application to set aside the sale without filing an application to set aside the exparte orders passed against him in E.P.23/2013, on that ground itself the petition is liable to be dismissed as he is not competent to file this application without set aside the exparte orders passed against him in E.P.23/2013. Even assuming that this application is liable to entertained on any ground under Order 21 Rule 89 CPC, the petitioner/J.Dr is entitled to file an application to set aside the sale on deposit of E.P. amount, but no such deposit has been made by the judgment debtor. Therefore, the application is also not maintainable on that ground also. Moreover, the application has been filed within 60 days from the date of sale, but this application is filed beyond the period of limitation. Hence, on that ground also this petition is not maintainable and it is liable to be rejected.”

The petitioner did not explain bonafide circumstances for considering his applications at a belated stage. The petitioner also did not state as to why he remained exparte in the suit as well as in execution petition. The petitioner came forward with the applications only after E.P. was closed on 09.09.2014 and did not file the said applications within the prescribed time of 60 days from the date of sale.

In the circumstances, I am of the opinion that the orders passed by the learned IV Additional Senior Civil Judge, Guntur do not warrant any interference by this Court. Hence, the civil revision petitions are liable to be dismissed.

Accordingly, the civil revision petitions are dismissed. No order as to costs.

Pending miscellaneous petitions in this revision petition, if any, shall stand closed in consequence.

A.RAMALINGESWARA RAO, J

17.11.2015
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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