

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-
S.A.NO.262 OF 2015

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JUDGMENT

Heard the counsel for the appellant at the stage of admission.

2. Aggrieved by the judgment and decree dated 16.3.2015 passed by the court of XIII Additional District Judge (FTC), Vijayawada in A.S.No.1 of 2013 in confirming the judgment and decree of the trial court i.e., Principal Senior Civil Judge, Vijayawada in E.A.No.415/2011 in E.A.No.95/11 in E.P.No.113/2007 in O.S.No.647/2006 dated 10.12.12 and thereby rejecting the claim of the appellant, over the suit schedule property, who is the 3rd party, the present second appeal is filed.

3. The appellant is the third party claimant. One Pyla Somulu is the registered owner of the suit schedule property and he sold the property under registered sale deed to Bhutapuri Himanshu Bhushanam and he was indebted to one Rayavarapu Sesha Rao and as the amount was not paid, the said Sesha Rao instituted the suit in O.S.No.647/2006 on the file of Principal Senior Civil Judge, Vijayawada for recovery of the amount and the suit was decreed by judgment dated 18.7.2006. As the judgment-debtor, failed to pay the E.P. amount, the suit schedule property was brought to sale and the auction purchaser, paid the sale consideration and the sale was confirmed and the sale certificate was issued to him and when the property was sought to be delivered by the court Amin, the present appellant who is the third party claimant filed E.A.No.415/2011 in E.A.No.95/2011 in E.P.No.113/2007 in O.S.No.647/2006 claiming that the suit schedule property is the ancestral property of himself and respondents 4 to 14 and that the sale deed obtained by the judgment-debtor under Ex.A-1 is fabricated and therefore, sought to resolve his claim, grant stay of the delivery of the possession and consequential permanent injunction. Both the trial court as well as the lower appellate court rejected the claim of the appellant and hence the second appeal.

4. From the material on record, it could be seen that though the

appellant has claimed that the property is his ancestral property, failed to prove the said fact and further he also failed to prove that the sale made under Ex.A-1 in favour of the judgment-debtor by Pyla Somulu is fabricated, therefore, by cogent and convincing reasons, concurrently both the courts below rejected the claim of the petitioner by recording finding of facts in this regard. A perusal of the grounds raised in the second appeal and the arguments of the learned counsel would show that the appellant is disputing the findings of fact, which cannot be gone into in the second appeal in the absence of any contra evidence and I do not find any questions of law, much less substantial for interference under Section 100 C.P.C. and hence the appeal is devoid of any merit and the same is liable to be dismissed and accordingly dismissed at the stage of admission.

5. Miscellaneous petitions pending if any, shall stand closed.

6. No costs.

G.CHANDRAIAH,J

DATE:3.7.2015

AVS