

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.4587 of 2014

ORDER :

This Civil Revision Petition, under Section 115 of C.P.C., is filed by the petitioner/claimant in E.A.No.201 of 2014 aggrieved by the order and decree dated 14.11.2014 in E.A.No.389 of 2014 in E.A.No.201 of 2014 in E.P.No.60 of 2012 in O.S.No.57 of 2012 passed by the Principal Junior Civil Judge, Avanigadda, Krishna District, dismissing the application filed by her under Order 8, Rule 9 and Section 151 of C.P.C., seeking to grant leave to permit her to file rejoinder in the claim petition with additional pleadings to meet the ends of justice.

2. The aforesaid suit for recovery of money based on a pro-note filed by the 2nd respondent/decree holder against the 3rd respondent/judgment debtor was decreed exparte. In the execution proceedings in E.P.No.60 of 2012 in O.S.No.57 of 2012, the 2nd respondent himself, who is the plaintiff, was declared as the auction purchaser. In the said E.P., the petitioner/claimant filed E.A.No.201 of 2014 stating that she has purchased the suit schedule property through a registered sale deed dated 30.5.2012 from the 3rd respondent/judgment debtor and his two sons and hence, the sons of the 3rd respondent are having joint rights in the suit schedule

property along with the 3rd respondent. Respondent Nos.1 and 2 have filed counter affidavit in the said E.A. Thereafter, the petitioner/claimant filed rejoinder along with the present E.A.No.389 of 2014 seeking permission to file rejoinder in claim petition with additional pleadings to meet the ends of justice. The respondents resisted the said application by filing counter affidavit. After considering the material and the evidence on record, the Court below dismissed the said application through the impugned order dated 14.11.2014. Hence the present civil revision petition.

3. Heard learned counsel for the parties and perused the impugned order and the material on record.

4. From a perusal of the impugned order, it is clear that the application of the petitioner/claimant was dismissed mainly on the ground that no new facts have come to light subsequent to the filing of E.A.No.201 of 2014 and hence the petitioner/claimant cannot be permitted to take additional plea.

5. It is not in dispute that the registered sale deed dated 30.05.2012, basing on which the petitioner/claimant is seeking to set aside the auction sale, was executed not only by the 3rd respondent/judgment debtor, but also his sons, who are having joint rights in the suit schedule property along with the 3rd respondent. Therefore, if the said additional plea is permitted to be taken by the petitioner/claimant by allowing the present application in

E.A.No.389 of 2014, no prejudice would be caused to the respondents. Whether the suit schedule property exclusively belongs to the 3rd respondent or not is a matter for evidence in E.A.No.201 of 2014 filed by the petitioner/claimant. But, the same cannot be a ground to reject the present application.

6. Accordingly, the impugned order dated 14.11.2014 is set aside and, consequently, E.A.No.389 of 2014 stands allowed. It is made clear that this Court is not expressing any opinion on merits of the case and the Court below shall adjudicate the claim petition in E.A.No.201 of 2014 on its own merits, basing on the evidence on record and pass appropriate orders in accordance with law. As it is stated that the 1st respondent/auction purchaser has purchased the suit schedule property by paying the entire amount, the Court below is directed to dispose of E.A.No.201 of 2014 as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

7. Accordingly, this civil revision petition is allowed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY
27.02.2015.
Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY

-

CIVIL REVISION PETITION No.4587 of 2014

27.02.2015

Msr