

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.528 of 2015

ORDER:

This Civil Revision Petition, under Section 115 of CPC, is filed against the order and decree dated 01.12.2014 in E.A.No.130 of 2012 in E.P.No.6 of 2010 in O.S.No.256 of 2001 on the file of the Junior Civil Judge at Gannavaram, Krishna District.

The respondent herein filed the aforesaid suit seeking eviction of the petitioner herein from the suit schedule property, which is an open site, and certain other reliefs. By judgment dated 21.11.2006, the trial Court decreed the suit. Questioning the same, the petitioner has filed an appeal before the Senior Civil Judge, Gudivada and the same was dismissed by judgment dated 02.01.2009, confirming the judgment of the trial Court. Against the same, no further appeal is preferred. In the execution proceedings, there was resistance by the workers of the judgment debtor, and thereupon, based on the report submitted by the Court Amin that some structures are being raised in the subject site, the impugned order is passed directing the Court Amin to remove the structures in the schedule property and deliver the vacant possession of the property to the decree-holder.

Heard learned counsel for the petitioner and learned counsel for the respondent.

In this revision petition, it is contended by learned counsel for the petitioner that as there is a dispute with regard to identity of the property, it is not open for the Executing Court to order for removal of the structures by way of impugned order. With regard to the identity dispute, there was an adjudication in the judgment rendered by the trial Court. As the suit was decreed by the trial Court, despite raising the plea with regard to boundary dispute, and the same was

confirmed by the appellate Court, it is not open for the petitioner to raise the same plea again before the Executing Court. Further, it is always open to the Executing Court to pass an order for removal of the structures raised in the schedule property for handing over vacant possession of the property to the decree-holder in execution of the decree. Hence, this Court is of the view that there is no illegality in the impugned order warranting interference of this Court in exercise of revisional jurisdiction under Section 115 of CPC and the revision is devoid of merits.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

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

R.SUBHASH REDDY, J

01.05.2015

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