

THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

FRIDAY THIS THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

**THE HON'BLE MR JUSTICE A.RAMALINGESWARA
RAO**

-
CIVIL REVISION PETITION No.3381 of 2014

Between:
Mohammed Rizwana Begum

.....
PETITIONER

AND
Mohammad Rasheed

.....**RESPONDENT**

The Court made the following:

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA
RAO**

CIVIL REVISION PETITION No.3381 of 2014

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ORDER:

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

This civil revision petition is filed challenging the proclamation of sale of immovable property in E.P.No.92/2013 in O.S.No.144/2012 on the file of the Senior Civil Judge, Miryalaguda.

The respondent herein filed O.S.No.144/2012 on the file of the Senior Civil Judge, Miryalaguda, Nalgonda District for recovery of an amount of Rs.1,46,580/- on the basis of a promissory note executed on 08.11.2011 by the petitioner herein for an amount of Rs.1,40,000/-. The suit summons were not received by the petitioner and hence notice was published in the newspaper. In spite of the same, the petitioner did not appear. A *ex parte* decree was passed on 13.09.2012. The petitioner did not take any steps for setting aside the *ex parte* decree or filing appeal against the decree. The respondent herein filed E.P.No.92/2013 for recovery of decretal amount by selling the house property. Even after filing E.P. also, the petitioner/Judgment Debtor was absent on 22.07.2013 and 19.08.2013. The property was attached and it was executed on 04.10.2013. The respondent/Decree Holder filed application for publication of sale notice and the said petition was allowed on 26.02.2014 and the case was posted to 20.03.2014. On that day also, the petitioner/Judgment Debtor was absent and the case was adjourned to 01.04.2014 for filing valuation certificate. On 30.07.2014 the proclamation of sale of property was ordered to be published in "Eenadu Telugu Daily". The present revision is filed against the said order.

The case of the petitioner is that she is not residing in the house mentioned in the plaint and she is residing in Hyderabad. The

schedule property was mortgaged to one Mrs.Kancharla Sandhyavathi, vide registered mortgage deed dated 20.04.2011 and handed over possession of the same to her. Since the petitioner/Judgment Debtor was unable to redeem the mortgage, she executed a regular sale deed on 19.06.2014 and the property does not belong to her any longer and hence the sale proclamation has to be set aside.

If the property does not belong to the petitioner/Judgment Debtor, the petitioner/Judgment Debtor has no cause of action to file the present civil revision petition for interdicting the proclamation of sale. Purchaser of property has other remedies open under Code of Civil Procedure. The petitioner/Judgment Debtor has not taken any steps either for setting aside the *ex parte* decree or for challenging the proposed sale before the trial Court. In the circumstances, the civil revision petition is not maintainable and is accordingly dismissed. No order as to costs.

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

A.RAMALINGESWARA RAO,J

Date: 13.03.2015

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