

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.5555 of 2012

ORDER:

Heard Sri Vedula Srinivas, learned counsel appearing for Sri Y.Koteswara Rao, learned counsel for the petitioner and Sri M.V.Suresh, learned counsel for the respondents.

2. This Revision Petition is filed challenging the order dt.26-09-2012 in E.A.No.665 of 2012 in O.S.No.102 of 2006 of the Additional Senior Civil Judge, Eluru.

3. The petitioner herein is the J.Dr. The 1st respondent filed a suit for recovery of money against the petitioner and respondent Nos.2 and 3 and the said suit had been decreed. Thereafter, the property belonging to the petitioner was brought to sale and the sale was conducted on 04-06-2010. The 1st respondent himself obtained leave of the Court and became the highest bidder in the said sale.

4. An application E.A.No.665 of 2012 under Order XX1 Rule 84 CPC was filed by the petitioner to set aside the sale held on 04-06-2010 on 30-08-2012. This application was dismissed on 26-09-2012 by the impugned order stating that it is filed

beyond the period of 60 days specified under Article 127 of the Limitation Act, 1963 and therefore it is barred by Limitation.

5. Challenging the same, this Revision Petition is filed.

6. Although the learned counsel for the petitioner sought to contend that 1st respondent decree holder himself has not complied with the provisions of Order 21 Rules 84 and 85 CPC and therefore the impugned order needs to be set aside, I am unable to agree with the said submission. When E.A.No.665 of 2012 has been filed by the petitioner beyond the period of limitation under Article 127 of the Limitation Act, 1963, the said E.A. was rightly not entertained by the Court below. In such a situation, C.R.P. cannot be allowed to grant any relief to the petitioner in a Revision Petition challenging the said order in E.A.No.665 of 2012.

7. Therefore, I do not find any merit in the Civil Revision Petition. It is accordingly dismissed. However, liberty is given to the petitioner to raise the contention of violation of Order 21 Rules 84 and 85 CPC by 1st respondent in an appropriate proceeding in the Court below. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 03-09-2015

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