

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**CONTEMPT CASE No.1985 of 2015**

**ORDER:**

This Contempt Case arises out of an order passed by this Court in C.R.P. (SR).No.17168 of 2014 on 03.09.2014. The petitioner herein is the petitioner in the above said C.R.P. (SR).No.17168 of 2014. She is a third party to the suit O.S.No.775 of 2009, from out of which Execution Proceedings in E.P.No.292 of 2012 are initiated.

It is alleged by the petitioner that her husband has deserted her and also stopped maintaining the 2 children born to her through her 1<sup>st</sup> marriage, which was an obligation undertaken by her husband. In those circumstances, the petitioner appears to have filed M.C.No.44 of 2010 on the file of IV Additional Junior Civil Judge, Rajahmundry. On 03.02.2012, the learned IV Additional Junior Civil Judge, Rajahmundry allowed the Maintenance Case by ordering for payment of Rs.3,000/- per month to the petitioner and Rs.1,500/- per month to each of her children, thus totaling to Rs.6,000/- per month. It is her further case that in spite of the order dated 03.02.2012, her husband continued not to maintain the petitioner and her 2 children and has not paid a penny towards her maintenance. Therefore, she offered resistance to the Execution Proceedings, which are initiated by putting to sale an immovable property said to be owned by her husband. Her case was that the said building had 3 shop rooms and exactly each of those tenants was paying Rs.2,000/- per month as rent and she somehow persuaded those three tenants to pay her each month the rental amount of Rs.2,000/- each, so that Rs.6,000/- per month, the maintenance amount awarded by the IV Additional Junior Civil Judge, Rajahmundry can thus be realized. It was, therefore, her case that if the property in question is put to sale and if the property is allowed to

be sold away, her only source to realize her monthly maintenance would get completely jeopardized.

Taking the above stated facts and circumstances, while declining the request of the petitioner in C.R.P. (SR).No.17168 of 2014 to stop the execution proceedings from proceeding any further, liberty was granted by this Court to proceed further with the Execution Proceedings. However, such permission has been hedged by two conditions i.e. balance sale consideration amount payable by the D.Hr. in a sum of Rs.1,00,000/- shall not be disbursed to the Judgment Debtor and instead the said Rs.1,00,000/- shall be confined to an interest bearing Fixed Deposit, so that interest secured thereon can be paid to the petitioner.

As permitted, the Execution Proceedings have been carried on. Now, learned Principal Senior Civil Judge, Rajahmundry passed final orders on 03.08.2015 in E.P.No.292 of 2012 for delivery of the property, in case of necessity by breaking open the locks applied and also by removal of obstructions by securing the police aid.

Sri S.Sriramachandra Murthy, learned counsel for the petitioner, would urge that there is a specific direction contained in the C.R.P. that in case the amount of Rs.1,00,000/- is not available with the Court, further proceedings may not be taken up. Contrary there to, learned Senior Civil Judge has passed the final orders of delivery and hence there was contemptuous conduct exhibited. He, therefore, urges that action shall be taken against the respondents.

According to the learned counsel for the petitioner, the husband of the petitioner neglected to pay monthly maintenance from 03.02.2012. Therefore, it is open to the petitioner herein to initiate Execution Proceedings for securing the execution of the decree passed in M.C.No.44 of 2010 and also to initiate contempt case exclusively against her husband. There is no way, for this Court could proceed against the Decree Holder in O.S.No.775 of 2009. Hence, this contempt case is dismissed preserving the above liberty. No order as

to costs.

The miscellaneous applications, if any shall also stand closed.

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**JUSTICE NOOTY RAMAMOHANA RAO**

18.12.2015

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