

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**CIVIL REVISION PETITION NO.4085 OF 2013**

**DATED 20<sup>th</sup> MARCH, 2015**

Between:

K. Jagan Mohan Reddy and others

.. Petitioners

and

Karra Ahalya

.. Respondent

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**CIVIL REVISION PETITION NO.4085 OF 2013**

**ORDER**

This civil revision petition arises out of the order dated 20.08.2013 passed by the learned Principal Junior Civil Judge, Warangal, in E.P.No.406 of 2010 in O.S.No.722 of 2009. By the said order, the Executing Court held that the Judgment-Debtors were liable to be punished for disobeying the *ex parte* decree dated 24.07.2010 passed in the suit and directed issuance of Rule 32 warrant against them on payment of process. Aggrieved thereby, the Judgment-Debtors filed this revision petition.

This Court granted interim stay of all further proceedings in the execution petition pending disposal of this revision petition by its order dated 23.10.2013. C.R.P.M.P.No.3203 of 2014 was filed by the respondent/Decree-Holder to vacate the said order.

Heard Mr. T. Koteswara Prasad, learned counsel for the petitioners/Judgment-Debtors, and Ms. P. Lakshmi, learned counsel for the respondent/Decree-Holder.

Parties shall be referred to hereinafter as arrayed before the Executing Court.

Perusal of the order under revision reflects that the suit, O.S.No.722 of 2009, for a permanent injunction was decreed *ex parte* by the learned Principal Junior Civil Judge, Warangal, on 24.07.2010. Alleging that despite the said decree, the Judgment-Debtors were not allowing her to proceed with her agricultural activities and that they were trespassing into the suit schedule property, the Decree-Holder prayed that they be punished suitably for willful disobedience to the decree. Contesting the petition, the Judgment-Debtors complained, on the one hand, that the

decree dated 24.07.2010 had been obtained by playing fraud and, on the other, that the Decree-Holder was not in possession of the subject property. Taking note of this contention, the Executing Court held that the same would by itself amount to interference with and willful disobedience to the decree. Reliance in this regard was placed upon the judgment of the Madras High Court in **V.S.ALWAR AYYANGAR V/s. GURUSAMY THEVAR**<sup>[1]</sup>. Holding so, the Executing Court concluded that the Judgment-Debtors, despite having an opportunity to obey the decree, had willfully chosen not to do so and were therefore liable to be punished.

It is an admitted fact that by the *ex parte* decree dated 24.07.2010, O.S.No.722 of 2009 was decreed and an injunction was granted restraining the Judgment-Debtors from interfering with the peaceful possession and enjoyment of the Decree-Holder over the suit schedule property. As long as the said decree remained in force, it was not open to the Judgment-Debtors to contend that the Decree-Holder was not in possession of the suit property. Today, by way of separate orders, this Court dismissed the civil revision petitions filed by the Judgment-Debtors against the refusal by the trial Court to condone the delay on their part in filing an application to set aside the *ex parte* decree dated 24.07.2010 and against the rejection of their petition under Section 47 CPC attacking the subject *ex parte* decree on the ground of fraud. That being so, the *ex parte* decree dated 24.07.2010 passed in O.S.No.722 of 2009 stands and it is not open to the Judgment-Debtors to seek to defeat the same obliquely by insinuating that the Decree-Holder is not in possession of the suit property. This stand on their part, as rightly pointed out by the Executing Court, constitutes willful disobedience to the decree. This Court therefore finds no reason to interfere with the order passed by the Executing Court holding that that the Judgment-Debtors had chosen to disobey the decree passed in the suit and were therefore liable to be punished.

The CRP is devoid of merit and is accordingly dismissed. Interim

order dated 23.10.2013 shall stand vacated. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

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**SANJAY KUMAR, J**

**20<sup>th</sup> MARCH, 2015**

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[\[1\]](#) AIR 1981 Madras 354