

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

CIVIL REVISION PETITION No.3327 of 2013

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ORDER:
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This Civil Revision Petition is filed challenging the order

dt.12-07-2013 in E.P.No.227 of 2008 of the Principal Senior Civil Judge, Ranga Reddy District at L.B. Nagar issuing sale notice to petitioner, who is J.Dr. in O.S.No.706 of 2005.

2. The said suit was filed under Order XXXVII CPC by respondent for recovery of a sum of Rs.1,40,000/- with future interest till date of realization and for costs.

3. Even though the petitioner engaged a counsel, no written statement was filed and there was no representation even after lapse of 90 days. Therefore, on 07-07-2008, the Court below passed a decree stating that it appeared that petitioner had no case to rebut the case of respondent.

4. According to petitioner, he has filed a petition under Order IX Rule 13 CPC to set aside the said decree in the year 2010 on the ground that it is an exparte decree; that the said application was allowed subject to payment of

costs; that such costs were not paid; and thereafter an application for review of the said order was also filed, and it is pending before the Court below.

5. The learned counsel for petitioner contends that half of the decretal amount has since been paid and therefore further proceedings for sale of the property of petitioner should be stayed.

6. The learned counsel for respondent, on the other hand, contended that the suit in question was a summary suit and even though the petitioner had engaged a counsel, he did not file any written statement contesting the suit claim; therefore, decree was passed by the Court below on 07-07-2008; and as on today, the said decree has attained finality. He pointed out that review petition said to have been filed by petitioner has also been dismissed. He pointed out that the suit transaction arose on 01-01-2005, the suit was filed in 2005, but was decreed on 07-07-2008 and E.P. was filed in 2008 itself, but for the last 7 years the petitioner has been dragging on the proceedings without satisfying the decretal amount.

7. I see force in the submissions of the learned counsel for respondent. The decree in O.S.No.706 of 2005 has attained finality. More than 10 years have elapsed since the suit transaction has transpired. The

petitioner admittedly has immoveable property, which is sought to be now sold in execution of the decree. Merely because the petitioner has paid, according to him, 50% of the decretal amount, he cannot be absolved of the liability to pay the balance amount due under the decree.

8. Therefore, I do not find any merit in the Revision and it is accordingly dismissed. However, time is granted to petitioner to satisfy the decree within 8 weeks from the date of passing of this order. If not, the trial Court is entitled to proceed with the execution of the decree to recover the decretal amount. No costs.

9. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 22-06-2015

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