

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

CIVIL REVISION PETITION NO.1004 OF 2015

ORDER:

This Revision is filed challenging the order dated 05.02.2014 in E.A.No.3 of 2013 in E.P.No.131 of 2010 in O.S.No.16 of 2002 passed by the VI Additional District Judge, Kadapa.

2. The petitioner herein filed O.S.No.16 of 2002 against the respondents on the file of the VI Additional District Judge, Kadapa, for recovery of money and for other reliefs. The said suit was decreed on 29.04.2010.

3. Challenging the same, the respondents herein filed A.S.No.63 of 2011 before this Court seeking stay of the judgment and decree of the Court below.

4. While granting stay, this Court directed the appellants to deposit one-fourth (1/4th) of the decretal amount and costs and permitted the petitioner to withdraw the said amount without furnishing any security.

5. Challenging the said order of this Court, the respondents filed Civil Appeal No.17 of 2013 before the Honourable Supreme Court of India.

6. By order dated 03.01.2013, the Supreme Court allowed the appeal partly. It held that the amount already deposited by the respondents can be invested in a term deposit but suspended the direction regarding the release of the amount in favour of the decree holder pending disposal of the appeal.

7. It appears that the petitioner had filed a cheque petition for withdrawal of the amounts deposited by the respondents and even though the said application was opposed by the respondents, the Court below allowed it on 02.01.2012 and a cheque was issued for a sum of Rs.90,24,777/- to the petitioner. The petitioner encashed the cheque.

8. After the Supreme Court disposed of the appeal, the respondents

filed E.A.No.3 of 2013 under Sections 144 and 151 of the Code of Civil Procedure for a direction to the respondents to deposit the amount withdrawn in the E.P., which had been deposited by the respondents corresponding to one-fourth of the decretal amount in the E.P. This application was opposed by the petitioner.

9. By order dated 05.02.2014, this application was allowed by the Court below. After setting out the facts, the Court below held that even though a Review petition had been filed by the petitioner in the Supreme Court to review the order, no orders were passed thereon and once the Supreme Court had directed the amount to be kept in term deposit, even if the petitioner had withdrawn the amount, he is bound to deposit it.

10. Questioning the same, this Revision is filed.

11. Counsel for the petitioner contended that the Supreme Court was not apprised the fact that by the date it passed the order in the S.L.P. on 03.01.2013, the amount had already been withdrawn by the petitioner and even though an attempt to get a review of the said order was made in the Supreme Court by filing Civil Appeal No.15 of 2013, the same has been dismissed. He, therefore, contends that the petitioner ought not to have been directed to deposit Rs.90,24,777/- as was done by the Court below since the amount had been withdrawn by the petitioner even before the order has been passed by the Supreme Court.

12. Admittedly, notice in the S.L.P. was served on the petitioner but the petitioner has not responded to the notice issued in the S.L.P., which resulted in the order dated 03.01.2013 being passed by the Supreme Court in Civil Appeal No.17 of 2013. The Supreme Court had directed that the amount deposited by the respondent should be invested in term deposit and suspended the direction to release the same in favour of the petitioner. The attempt by the petitioner to get the said order reviewed in Supreme Court also has not fructified.

13. In this view of the matter, the Supreme Court order is binding on

the petitioner as well and he has no choice to comply with the order dated 05.02.2014 in E.A.No.3 of 2013 passed by the Court below. The said order only grants restitution to the respondents and is in tune with the decision of the Supreme Court in the Civil Appeal referred to above.

6. Therefore, I do not find any merit in the Revision and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.S.RAMACHANDRA RAO, J)

2nd April 2015

RRB