

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.746 of 2015

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ORDER:

The petitioners are purchasers from the auction purchaser, who was the successful bidder of property in E.P.No.144/1999. After purchase of the property by the petitioners herein, the first respondent herein filed E.A.No.204/2005 for setting aside the sale and the consequential proceedings in E.P. No.144/1999. In the said E.A.No.204/2005, the petitioners were made parties. When the said E.A. No.204/2005 was pending, E.A.No.224/2014 was filed by the sixth respondent herein to transpose the sixth respondent herein as second petitioner in E.A. No.204/2005, and when the said application was allowed without hearing the petitioners herein, the present Civil Revision Petition was filed.

It is submitted by the learned counsel for the petitioners that E.A. No.204/2005 was filed to reopen the Execution Petition and set aside the auction sale dated 23.01.2004 in E.P.No.144/1999. The affidavit filed in support of the said application contains several grounds and the petitioners herein were arrayed as the respondents 6 to 8 therein. The sixth respondent herein was the Judgment Debtor. When E.A.No.204/2005 was taken up by the trial Court, the trial Court should have noticed that the petitioners herein, who were already parties in E.A.No.204/2005, were not made parties in E.A. No.224/2014, and should have ordered notice to them also. Though the petitioners herein were not made parties to the petition, the impugned order was passed as follows:

“R5 R6 counter not filed. Cost paid. R5 R6 called absent, no representation. R5 R6 set exparte. Heard the petitioner counsel, petition filed by the petitioner to Transpose, respondent No.2 in E.A.204/2005 as petitioner No.2. Since, the respondent not filed any counter, claim petition also reported no counter. Heard the petitioner, petition in the JDr in EP.144/99 now the petitioner. JDr wants to Transpose JD2 as claim petition in E.A.204/2005. Since the petitioner also seeking to transpose as 2nd claim petitioner the same relief of set aside the sale, petition filed the petition. Hence, petition is allowed the second respondent is Transpose as second petitioner in

E.A.204/2005. For carrying out Amendment and neat copy, call on 19.11.2014.”

In the absence of hearing the petitioners while allowing the present E.A. No.224/2014, the order passed on 05.11.2014 allowing E.A. No.224/2014 by the learned Principal Senior Civil Judge, R.R. District, is set aside, and the matter is remanded to the learned Principal Senior Civil Judge, R.R. District at L.B.Nagar, to pass appropriate orders in accordance with law after hearing the petitioners also.

Accordingly, this Civil Revision Petition is allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

23.11.2015

MVA

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