HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CRP.No.1505 of 2015

Between:
Y.Shanker Rao,
S/o Late Ramachandra Rao

..... Petitioner

And:
B.V.Neelamber Rao,
S/o B.R.Venkat Rao
and six others.

.....Respondents

Counsel for the petitioner: Smt A.Anasuya

Counsel for Respondent No.1: Sri V.V.N.Narasimham

The Court made the following:
ORDER:

This Civil Revision Petition arises out of order, dated 10.02.2015, in I.A.No.1293 of 2013 in I.A.No.2265 of 2008 in I.A.No.1438 of 2005 in O.S.No.223 of 2005 on the file of the II Additional District Judge, Ranga Reddy District at NTR Nagar, Hyderabad.

The brief facts leading to the filing of this Civil Revision Petition are that respondent No.1 has filed the above-mentioned suit for recovery of a sum of Rs.1.50 crores with interest against the petitioner and one Chintapalli Achaiah, who are arrayed as defendant Nos.1 and 2 respectively. (In the cause title of this Civil Revision Petition, the petitioner is wrongly described as defendant No.2). Respondent No.1-plaintiff has filed I.A.No.1438 of 2005 under Order-XXXVIII Rule 5 CPC seeking attachment of plaint ‘A’ and ‘B’ schedule properties before

judgment. By order, dated 24.08.2005, the lower Court has directed the defendants to appear before it on or before 09.09.2015 to show cause why attachment before judgment shall not be ordered in respect of the plaint schedule property or furnish security for the suit claim. It was further ordered that in the event of the failure of the defendants to comply with the said notice, attachment of the petition schedule property shall be made to the extent of the suit claim only. Urgent notice was, accordingly, ordered. On 09.09.2005, the defendants entered appearance through their counsel and sought time for filing counter-affidavit. The case was, accordingly, adjourned to 21.10.2005. As no counter-affidavit was filed, the case was again adjourned, at the request of learned counsel for the defendants, to 02.11.2005 finally. Even on 02.11.2005, counter-affidavit was not filed and therefore, the lower Court has ordered attachment before judgment of the petition schedule property to the extent of the suit claim and the same was effected.

After the attachment order was passed, the petitioner who is the General Power of Attorney holder of respondent No.2-defendant No.2 executed the sale deeds in favour of his wife, son and relatives in respect of three plots of 'A' schedule property. Therefore, respondent No.1-plaintiff has filed I.A.No.2265 of 2008 seeking direction to the petitioner to furnish security by way of bank deposit or guarantee for the suit claim and in non-compliance thereof, commit him to civil prison for violation of the attachment order. The said application was contested by the petitioner and the lower Court has allowed the said application directing issuance of arrest warrant against the petitioner to appear before the Court and submit his explanation as to why he could not furnish security for the suit amount, failing which, he will be committed to civil prison.

The petitioner has filed Civil Revision Petition

No.2230 of 2009 against order, dated 17.04.2009 in I.A.No.2265 of 2008. By order dated 27.01.2010, the said Civil Revision Petition was dismissed by this Court. Despite the said order, the petitioner has not appeared before the lower Court. However, the petitioner has filed I.A.No.1007 of 2013 in I.A.No.1438 of 2005 under Order-XXXVIII Rule-6(2) CPC seeking attachment of the EP schedule property. The said application is stated to be pending before the lower Court.

As the petitioner failed to appear before the lower Court and furnish the bank guarantee as directed by the lower Court, respondent No.1 has filed IA.No.1293 of 2013 for punishing the petitioner for non-compliance of order, dated 17.04.2009, in I.A.No.2265 of 2008.

In the counter-affidavit filed by the petitioner, he has admitted his liability and tendered unconditional apology to the Court. The lower Court by the order under revision allowed I.A.No.1293 of 2013, while finding the petitioner guilty of the contempt of Court and directed his office to make a reference to this Court for initiating necessary proceedings against the petitioner.

The facts discussed above reveal, without any cavil of doubt, that the petitioner has violated the attachment order and executed the sale deeds in favour of his own family members and relatives. Therefore, the lower Court is fully justified in rendering a finding that the petitioner has violated its order and directing reference of the case to this Court for punishing the petitioner for violation of its order under Section 10 of the Contempt of Courts Act, 1971. Hence, I do not find any illegality or jurisdictional error in the order of the lower Court.

The Civil Revision Petition is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRP.MP.No.2032 of 2015 filed by the petitioner for interim relief is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

24th April, 2015
DR