

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.4434 of 2015

Date:06.11.2015

Between:

Sanikommu Yallamanda Reddy,

S/o Venkateswara Reddy

..... Petitioner

And:

Karampudi Narayana,

S/o Bollaiah and four others.

.....Respondent

Counsel for the Petitioner: Mr. Naga Praveen Vankayalapati

Counsel for Respondent No.1: Mr. K.Suresh Reddy

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 08.9.2015, in

E.A.No.33 of 2013 in E.P.No.55 of 2013 in O.S.No.501 of 2008 on the file of the learned Senior Civil Judge, Sattenapalli, Guntur District.

The petitioner is a third party. Respondent No.1 filed O.S.No.501 of 2008 against one Sambasiva Rao, who is the husband of respondent No.2 and father of respondent No.3, for recovery of certain money. The suit was decreed and in execution of the said decree, the property was sold to respondent Nos.4 and 5 in the auction held by the Court. The creditor of respondent No.3 filed E.A.No.33 of 2013 in the said E.P under Order-XXI Rule-89 of the Code of Civil Procedure for setting aside the sale of immovable property by receiving the E.P. amount. The petitioner has stated that as the property sold in execution of the decree obtained by respondent No.1 is very valuable and its sale would cause serious loss to various creditors of respondent No.3, they have pooled money at the rate of Rs.20,000/- each from the creditors and deposited the E.P. amount on 07.9.2012 and that therefore, the sale may be set aside. The lower Court has dismissed the said application.

A perusal of the record shows that the property which stood in the name of the original borrower-Late Sambasiva Rao was attached on 21.7.2008 and the attachment was made absolute on 08.8.2008. The sale was held on 04.7.2012. The petitioner deposited the E.P. amount on 07.9.2012 *i.e.*, beyond the period of 60 days prescribed for deposit of the decretal amount for setting aside the sale under Order-XXI Rule-89 C.P.C.

At the hearing, Mr. Naga Praveen Vankayalapati, learned counsel for the petitioner, is unable to show any provision under the Limitation Act, 1963 or the Code of Civil Procedure, which vests discretion in the Court to condone the delay in depositing the amount under Order-XXI Rule-89 C.P.C.

As admittedly, the deposit was made beyond the period of 60 days prescribed as limitation for such deposit, the petitioner is not entitled to seek setting aside the sale under Order-XXI Rule-89 C.P.C.

In the light of the above, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.5870 of 2015 shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

06th November, 2015

DR