

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Civil Miscellaneous Appeal No.1097 of 2014

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Dated 23rd April, 2015

Between:

Chennuri Satyanarayana

...Appellant

And

Shaik Anja Saheb and another

...Respondents

Counsel for the appellant: Sri Raja Reddy Koneti

Counsel for respondent No.1: Sri K.Narsi Reddy

Counsel for respondent No.2: Sri Allam Ramesh

The Court made the following:

JUDGMENT:

This civil miscellaneous appeal arises out of order, dated 17.06.2014, in E.P.No.54 of 2009, in O.S.No.49 of 2006, on the file of the learned Senior Civil Judge, Gurajala, whereby he has confirmed the sale held on 05.02.2014.

In O.S.No.49 of 2006 filed by respondent No.2 against the appellant, an *ex parte* decree was passed. Respondent No.2 has filed E.P.No.54 of 2009 for sale of

the property belonging to the appellant. Sale was held in which respondent No.1 offered the highest bid. In the EP, the appellant has filed EA raising objections to the proposed sale. The executing Court has returned the unnumbered EA on the ground of absence of learned counsel, and passed order, dated 17.06.2014, in E.P.No.54 of 2009, confirming the sale. Feeling aggrieved by the return of the EA, the appellant has filed C.R.P.No.1942 of 2014 before this Court. By order, dated 04.07.2014, this Court has allowed the said CRP by setting aside the docket order, dated 17.06.2014, of the executing Court with the direction to it to pass necessary orders afresh on the said EA. Feeling aggrieved by the order, dated 17.06.2014, in E.P.No.54 of 2009, confirming the sale in favour of respondent No.1, the appellant has filed this appeal.

At the hearing, Sri K.Narsi Reddy, learned counsel representing respondent No.1, has fairly submitted that after C.R.P.No.1942 of 2014 was allowed by this Court, the executing Court has numbered the EA as E.A.No.151 of 2014 and that the same pending.

In my opinion, so long as the order confirming the sale remains in force, hearing of the EA filed by the appellant raising objections to the proposed sale would remain an empty formality. As a necessary corollary of allowing C.R.P.No.1942 of 2014, the order, dated 17.06.2014, is liable to be set aside. The executing Court is therefore to hold an enquiry into E.A.No.151 of 2014 and pass orders on merits. The question whether the sale shall be confirmed or not would eventually depend upon the result of the said EA.

Accordingly, the order, dated 17.06.2014, in E.P.No.54 of 2009, is set aside. The lower Court is directed to dispose of E.A.No.151 of 2014 within four months from the date of receipt of a copy of this order.

It is represented that possession has not been delivered so far by the appellant, that respondent No.1 has deposited the entire sale consideration and that respondent No.2 has received the same.

In these facts and circumstances, *status quo* as on today in all respects till the disposal of E.A.No.151 of 2014 shall be maintained.

Subject to the above directions, the CMA is allowed.

As a sequel to disposal of the CMA, CMA.MP.Nos.1029/14 & 90/15 shall

stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

23rd April, 2015

VGB