

HONOURABLE SRI JUSTICE S.RAVI KUMAR

CIVIL REVISION PETITION Nos.4664 of 2015

&

4649 OF 2015

Dated 6th November, 2015

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CIVIL REVISION PETITION Nos.4664 of 2015

& 4649 OF 2015

Between:

M.A.Samad.

..Petitioner.

And:

M.Nageswara Rao.

..Respondent.

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HONOURABLE SRI JUSTICE S.RAVI KUMAR

CIVIL REVISION PETITION Nos.4664 of 2015

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COMMON ORDER:

These two revisions are preferred challenging order dated 19-2-2015 of Senior Civil Judge, Sangareddy whereunder E.P.No.38 of 2013 is closed in view of deposit made by J.Dr. to a tune of Rs.14,93,980/- which is more than the E.P.amount and the other revision is for closing E.A.No.119 of 2014 which was filed to permit the J.Dr. to deposit the entire decretal amount before the trial court as security to stay the sale proceedings till the appeal is disposed of, as per the provisions of order 41 Rule 6(2) C.P.C.

Advocate for revision petitioner submitted that trial court committed error in not passing appropriate orders on E.A.No.119 of 2014 which is filed under Order 41 Rule 6 (2) C.P.C. though subsequently provision of law is corrected as 151 C.P.C., as prayer is in accordance with Order 41 Rule 6 (2) C.P.C. He submitted that amount of Rs.14,93,980/- was deposited as a security to stay execution proceedings which are initiated in pursuance of decree passed in O.S./No.1634 of 2006 the plaintiff/D.Hr. has filed cheque petition for withdrawal of that amount and on account of closure of E.P. and also petition in I.A.No.119 of 2014, the J.Dr. was put to hardship. He further submitted that J.Dr. has already filed counter in the cheque petition taking all these objections including provisions of Order 41 Rule 6(2) C.P.C. and also the ground of changing the provision of law into 151 C.P.C. without the consent of party. It is also represented that the appeal filed challenging the decree in O.S.No.1634 of 2006 is still pending before this court and as the J.Dr. has not complied with the conditional order passed by the appellate court stay granted by appellate court is not worked out.

I have perused the material papers including the impugned order dated 19-2-2015 both in E.P. and E.A. No E.P. is pending as on today and sale conducted was already set aside. Therefore, I feel by directing the court below to consider the objections raised by J.Dr. in the cheque petition and decide cheque petition in accordance with law these revisions can be disposed of.

With the above observation, these two revisions are disposed of at the admission stage, directing the trial court to dispose of cheque petition on merits by taking into consideration all the objections without being influenced by any observations made in this order.

As a sequel to the disposal of this revision, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI KUMAR

Dated 6th November, 2015

Note:

Issue C.C. by 9-11-2015 (Monday).

Dvs.

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Dvs