

*** THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

+ CIVIL MISCELLANEOUS APPEAL No.421 OF 2015

AND

+ CIVIL REVISION PETITION NO.1346 OF 2015

%21.08.2015

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C.M.A.No.421 of 2015:

Ch.Mahender

....Appellant

v.

\$ D.Venkat Reddy and 3 others.

.... Respondents

! Counsel for the Appellant: Sri P.Venugopala Rao

Counsel for Respondents: Sri K.Harihar Babu

Sri Vijaykumar Sunnapu

-

C.R.P.No.1346 of 2015:

Ch.Mahender

....Petitioner

v.

\$ D.Venkat Reddy and 2 others

.... Respondents

! Counsel for the Petitioner: Sri Yallabandi Ramatirtha

Counsel for Respondents: Sri K.Harihar Babu

<Gist :

>Head Note:

? Cases referred:

1. AIR 1954 Supreme Court 349
2. AIR 2007 Supreme Court 998
3. AIR 2006 Supreme Court 1871

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL MISCELLANEOUS APPEAL No.421 OF 2015

AND

CIVIL REVISION PETITION NO.1346 OF 2015

COMMON ORDER:

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Both these cases arise out of the same execution proceedings between the same parties and hence are heard together.

The Judgment Debtor No.1 (J.Dr.) is the appellant in this Civil Miscellaneous Appeal, which is preferred aggrieved by the orders passed by the learned Principal Senior Civil Judge, Ranga Reddy District on 02.06.2015 in EA(SR).No.6238 of 2015 in E.P.No.207 of 2014. The respondent Nos.1 and 2 herein are the Decree Holders (D.Hrs.), whose suit O.S.No.623 of 2012 had been decreed by the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad on 22.08.2014.

The same J.Dr.No.1 preferred the Civil Revision Petition against the orders passed on 10.02.2015 in E.P.No.207 of 2014.

The suit O.S.No.623 of 2012 was instituted for recovery of a sum of Rs.9,58,650/- together with interest at 2.5% per month. That suit was decreed on 22.08.2014 directing the two defendants therein to pay, jointly and severally, a sum of Rs.9,58,650/- with interest at the rate of 12% per annum from the date of the suit till the date of decree and for the subsequent period the rate of interest was fixed at 6% per annum till realization on the principal amount of Rs.6,60,000/-. For executing this decree dated 22.08.2014, E.P.No.207 of 2014 was

filed on 20.10.2014 before the Principal Senior Civil Judge's Court, Ranga Reddy District at L.B.Nagar. It is also appropriate to notice that during the pendency of the civil suit, immovable property of the appellant herein - a flat located at Saroornagar, Hyderabad - was attached prior to the judgment as per the orders passed in I.A.No.1086 of 2012 on 03.10.2013. It is that immovable property, which was brought to sale on 02.04.2015 by the executing Court. It is to set aside the said sale that took place on 02.04.2015, the J.Dr. filed petition EA(SR).No.6238 of 2015.

Three objections have been raised mainly in support of the plea that the sale that was conducted on 02.04.2015 is vitiated and consequently it has to be set aside. The 1st objection is that upset price has been fixed at Rs.13,20,000/- for 880 Sq.Feet flat at Saroornagar, Hyderabad wholly based upon the valuation certificate issued by the Sub-Registrar's office, instead of ascertaining its market value in the locality. It is the claim of the J.Dr. that the market value of the flat is anywhere between Rs.22,00,000/- to Rs.25,00,000/-. The next objection was that the Execution Petition has been directly filed before the Principal Senior Civil Judge's Court at Ranga Reddy District without the decree passed by the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad being transferred and finally it was urged that the sale by way of public auction took place on 02.04.2015, whereas the auction purchaser has deposited the 1/4th of the bid amount not immediately but on 04.04.2015 and hence the sale is liable to be set aside and the property is liable to be resold.

In so far as the objection relating to filing the Execution Petition directly before the Court of Principal Senior Civil Judge, Ranga Reddy District is concerned, all I need to notice is the details that are furnished clearly in the order pronounced by the learned Principal Senior Civil

Judge, Ranga Reddy on 10.02.2015, which is the subject matter of consideration in C.R.P.No.1346 of 2015. It is recorded therein that the learned XVII Additional Senior Civil Judge, City Civil Court, Hyderabad decreed the suit on 22.08.2014 and thereafter the D.Hr. got the said decree transferred under Order 21 Rules 5 and 6 CPC and the decree so, transferred was received by the District Court, Ranga Reddy District on 18.10.2014 (inward number 12694/2014 dated 18.10.2014). Thereafter, the said decree was transmitted to the Court of Principal Senior Civil Judge, Ranga Reddy District. Thereafter, the D.Hrs. filed E.P.No.207 of 2014 on 20.10.2014. In this view of the matter, the contention canvassed by the learned counsel for the appellant that the decree has not been transferred from the City Civil Court, Hyderabad to the Ranga Reddy District Court is not founded upon correct facts and hence it does not hold water, as no challenge is brought to contradict the facts recorded by the Court. The only allegation made by the J.Dr. is that the order of transfer is made behind his back by XVII Additional Senior Civil Judge, City Civil Court, Hyderabad. On that question the Executing Court at Ranga Reddy District can pronounce no opinion. Further, the order of transfer of decree to Ranga Reddy District was not called in question, to this day.

In so far as fixing the upset price at Rs.13,20,000/-, it is recorded by the Principal Senior Civil Judge, Ranga Reddy District, that a detailed order was passed by that Court on 10.02.2015 in E.P.No.207 of 2014 and the matter was posted to 23.02.2015 for fixation of upset price and on 23.02.2015 the market value certificate issued by the Sub-Registrar's Office, Saroornagr is placed before it and was looked into and accordingly the upset price is fixed at Rs.13,20,000/-. After putting up the initial contest, about the maintainability of the E.P. the J.Dr. did not challenge the order passed on 23.02.2015 and he did not also file any objections with regard to fixation of upset price based upon the market

value certificate issued by the Sub-Registrar's Office. Nor did he file his own estimate of the value of the flat. He did not even appear before the Court on 23.02.2015. Hence, the upset price was fixed on 23.02.2015 for conducting the sale at Rs.13,20,000/-. The sale proclamation was carried out and it appears 5 persons have participated in the auction that took place on 02.04.2015 and the 4th respondent in the C.M.A.No.421 of 2015 emerged as the best bidder by offering Rs.15,20,000/-. In view of what has been noticed supra, for the failure of the J.Dr. to raise objections with regard to fixation of upset price for the sale of immovable property based upon the market value certificate issued by Sub-Registrar's Office and in the absence of any contemporaneous material to vouch for the fact that a 880 Sq.Feet flat can fetch much more money than Rs.13,20,000/-, without challenging the fixation of upset price on 23.02.2015, no such plea/objection can be raised after the sale has taken place. It is apt to notice that after the Executing Court passed an order under Rules 64 and 65 of Order XXI CPC an appropriate sale proclamation has to be drawn under Rule 66, of that Order. Clause 2 of this Rule requires notice to be served both on the J.Dr. and D.Hr. before the sale proclamation was drawn, in as much as, the sale proclamation shall contain all material particulars for a purchaser to know the nature and value of the property.

Further, the 2nd proviso to clause 2 of Rule 66, Order XXI CPC sets out the relevant concept relating to fixation of the estimated value of the property proposed to be sold in the following words.

“Provided further that nothing in this rule shall be construed as requiring the Court to enter in the proclamation of sale its own estimate of the value of the property, but the proclamation shall include the estimate, if any, given by either or both of the parties.”

(Emphasis is brought out by me)

Thus, it is not required of the executing Court to enter in the sale proclamation of the estimate of the value arrived at by the Court itself. In

other words, the Executing Court is not required to enter upon by any adjudicatory role in that regard. It was required to include the estimate, if any, given by either or both of the parties. In the instant case, the D.Hr. furnished his estimate of the value of the property proposed to be sold as Rs.13,20,000/- based upon the valuation certificate issued by the Sub-Registrar's Office, Saroornagar. Therefore, the burden is on the J.Dr. to furnish estimate of his own, if he desired really, so that the Court would have entered the same also. This is the precise reason why clause (e) of Rule 66 (2) of Order XXI CPC required the value of the property as stated (i) by the D.Hr. and (ii) by the J.Dr. to be incorporated (by way of local amendment to CPC). The J.Dr. has not furnished his own estimate of the value of the property sought to be sold and on the other hand he preferred to stay away from the proceedings altogether. Therefore, no exception can be drawn to the estimate of value entered by the Executing Court in the sale proclamation based upon the estimate of the value furnished by the D.Hr.

This apart, if the J.Dr. is confident that the sale of immovable property by way of private sale or even by mortgaging the same, the amount to satisfy the decree can be obtained, then he can make an application to the Court seeking postponement of the sale of the property. If any such application is made, in terms of Rule 83 Order XXI CPC, the Court can postpone the sale of the property on such terms and for such period as it thinks proper to enable the J.Dr. to raise the amount. Therefore, Rule 83 provides for one more opportunity for the J.Dr. to make an honest attempt to raise the money to satisfy the decree and thus avoid the sale to be carried out by the Court, should he feel that sales made by Courts would generally fetch less than the true market value.

In fact clause (3) of Rule 90, Order XXI CPC has clearly spelt out that no application to set aside the sale shall be entertained upon any ground which the applicant could have taken on or before the date on

which the proclamation of sale was drawn up.

Therefore, the contention canvassed with regard to improper fixation of the market value of the flat is unsustainable, as such a ground is not available after the sale is conducted based upon the proclamation of sale was drawn.

Learned counsel for the appellant Sri Venugopala Rao has urged that as per Rule 84, Order XXI CPC every person declared to be the purchaser at sale of immovable property shall pay immediately after such declaration a deposit of 25% of the amount of purchase money to the officer or other person conducting the sale and in default of such deposit, the property shall forthwith be resold. Learned counsel for the appellant would urge that the requirement of the purchaser depositing immediately 1/4th of the purchase money was a very essential requirement of law. It is a mandatory provision and the executing Court has no discretion left to grant time to the auction purchaser to comply with this requirement. If, for any reason, the auction purchaser fails to deposit immediately the 1/4th of the purchase money, it is required that the property shall forthwith be resold. In the instant case, the sale by public auction was conducted on 02.04.2015 whereas the deposit of 1/4th of purchase money has been made not immediately but on 04.04.2015 and hence the provision contained under Order 21 Rule 84 CPC was followed in the breach. Learned counsel for the appellant has placed reliance on the judgment rendered by the Supreme Court in “**Manilal Mohanlal Shah and others v. Sardar Sayed Ahmed Sayed Mahmud and another**”^[1], wherein it was held that the provision regarding deposit of 25% of the purchase money by the purchaser who is other than the D.Hr. is mandatory as the language of the rule itself suggests.

On the other hand, the learned counsel for the auction purchaser would support the order under appeal by setting forth that the sale by

public auction took place on 02.04.2015 and after the 4th respondent was declared as auction purchaser duly accepting the offer made by her at Rs.15,20,000/-, when the auction purchaser attempted to deposit 1/4th thereof amounting to Rs.3,80,000/-, the officer has declined to receive the same as by then the time to deposit the same in the treasury was over and the next day happened to be a public holiday, being Good Friday, the officer was not willing to receive the money and retain it with him/at Court for more than a day. In those circumstances, the purchaser has filed a memo before the Court seeking permission to deposit 1/4th of purchase money with the Court. However the Court has passed an order directing the deposit to be made on the next working day. Accordingly, 1/4th of the purchase money, together with poundage charges, has been deposited by the auction purchaser on 04.04.2015 and the balance 3/4th of the purchase money was also deposited before the Court on 09.04.2015, which is well within the 15 days time provided under Rule 85 and hence the sale certificate was also issued by the Court confirming the sale in favour of the 4th respondent/auction purchaser and the said certificate was also registered in the office of the Sub-Registrar's Office, Saroornagar on the very next day. In these circumstances, it is urged that the sale need not be set aside.

While one cannot dispute the proposition that deposit of 1/4th of the purchase money immediately is mandatory, but however what is required to be considered is whether the deposit made on the next working day because of the closure of the treasury to receive such deposit on the day of the sale can be put against the auction purchaser.

To find an answer to the above question, it is necessary to examine Rule 84, Order XXI CPC little closely and carefully. The Rule mandates

that on every sale of immovable property the person declared to be the purchaser shall pay immediately after such declaration a deposit of 25% on the amount of his purchase money to the officer or other person conducting the sale and in default of such deposit, the property shall forthwith be re-sold. That was a mandatory requirement. The rule requires the deposit to be made immediately. It is appropriate, therefore, to notice the exact meaning of the word “immediately.”

The word ‘immediate’ is defined by Webster as meaning, among other things, acting with nothing interposed or between or without the intervention of another object as a cause, occurring with delay, not separated by other persons or things, having a direct impact, without an intervening agency. Therefore, the ordinary and general signification of the term ‘immediate’ is that the things or event not separated from its object by any medium: directly related; nearest. The word ‘immediate’ means “at once; without delay” and it also means “directly connected; not secondary or remote.” (See paragraph No. 9 of *P.Orr and Sons (P) Ltd. v. Associated Publishers (Madras) Ltd.*, (1991) 1 SCC 301).

Therefore, the expression immediate occurring in Rule 84 has to be understood in the context of the events. Take a case where the sale conducted by Court or the authorized officer goes on beyond the normal working hours of the Court or the treasury or bank, for the successful purchaser to deposit 1/4th money. In a similar fact situation, which arose for consideration in “***Rosali V. v Taico Bank and others***”^[2] after noticing the principle enunciated by the Supreme Court in Manilal Mohanlal Shah’s case (AIR 1954 Supreme Court 349), the Supreme Court has enunciated the following principles:

“21. Having regard to the fact that the appellant had explained that it was not possible for his predecessor in interest to deposit the 25% of the amount immediately after such declaration, as the banks, at that point of time, were closed and furthermore having regard to the fact that presumably the court in that view of the matter had directed the

auction purchaser to deposit the amount on the next day, we are of the opinion that it satisfies the requirements of law.

22. It is a well-settled principle of interpretation of a statute that where literal meaning leads to anomaly and absurdity, it should be avoided. [See *Raghunath Rai Bareja and Another v. Punjab National Bank and Others* 2006 (13) SCALE 511]

23. It is equally well-settled that the Parliament must be held to have intended to lay down a reasonable statute unless a plain meaning of the Act leads to different conclusion. IT is trite that a statute must be read reasonably. [See *Ashok Lanka and Another v. Rishi Dixit and Others* (2005) 5 SCC 598]

24. In *Lalit Mohan Pandey v. Pooran Singh and Ors.* [(2004) 6 SCC 626], this Court opined:

"A statute must be construed having regard to the legislative intent. It has to be meaningful. A construction which leads to manifest absurdity must not be preferred to a construction which would fulfill the object and purport of the legislative intent." [See also *State of Himachal Pradesh and Ors. v. Surinder Singh Banolta*, 2006 (12) SCALE 571]

25. It is the duty of the court to accept a construction which promotes the object of a legislation. [Sanjay Dutt v. State through CBI Bombay (II) (1994) 5 SCC 410]

26. It is also a well-settled principle of law that common sense construction rule should be taken recourse to in certain cases.

27. In *Halsbury's Laws of England* (Fourth Edition) Volume 44(1) (Reissue), it is stated:

"1392. Commonsense Construction Rule. It is a rule of the common law, which may be referred to as the commonsense construction rule, that when considering, in relation to the facts of the instant case, which of the opposing constructions of the enactment would give effect to the legislative intention, the court should presume that the legislator intended common sense to be used in construing the enactment.

1477. Nature of presumption against absurdity. It is presumed that Parliament intend that the court, when considering, in relation to the facts of the instant case, which of the opposing constructions of an enactment corresponds to its legal meaning, should find against a construction which produces an absurd result, since this is unlikely to have been intended by Parliament. Here 'absurd' means contrary to sense and reason, so in this context the term 'absurd' is used to include a result which is unworkable or impracticable, inconvenient, anomalous or illogical, futile or pointless, artificial or productive of a disproportionate counter-mischief. 1480. Presumption against anomalous or illogical result. It is presumed that Parliament intends that the Court, when considering, in relation to the facts of the instant case, which of the opposing constructions of an enactment corresponds to its legal meaning, should find against a construction that creates an anomaly or otherwise produces an irrational or illogical result. The presumption may be applicable where on one construction a benefit is not available in like cases, or a detriment is not imposed in like cases, or the decision would turn on an immaterial distinction or an anomaly

would be created in legal doctrine. Where each of the constructions contended for involves some anomaly then, in so far as the court uses anomaly as a test, it has to balance the effect of each construction and determine which anomaly is greater. It may be possible to avoid the anomaly by the exercise of a discretion. It may be, however, that the anomaly is clearly intended, when effect must be given to the intention. The court will pay little attention to a proclaimed anomaly if it is purely hypothetical, and unlikely to arise in practice."

28. In *Bombay Dyeing and Mfg. Co. Ltd. (3) v. Bombay Environmental Action Group and Others* [(2006) 3 SCC 434], this Court observed:

"It is also a fundamental proposition of construction that the effect of deletion of words must receive serious consideration while interpreting a statute as this has been repeatedly affirmed by this Court in a series of judgments"

29. While applying the principles of interpretation, the courts are also required to keep in mind the following two well-settled principles of law:

(i) *Actus Curiae neminem gravabit* (an act of Court shall prejudice no man) [See *Satyabrata Biswas and Others v. Kalyan Kumar Kisku and Others* (1994) 2 SCC 266 *Ram Chandra Singh v. Savitri Devi and Ors.*, (2003) 8 SCC 319, *Board of Control For Cricket in India and Another Vs. Netaji Cricket Club and Others* (2005) 4 SCC 741 and *Union of India v. Pramod Gupta (D) By LRs. and Ors.* (2005) 12 SCC 1]; and (ii) *lex non cogit ad impossibilia* (the law does not compel a man to do that what he cannot possibly perform) [See *Ram Chandra Singh (supra)* and *Board of Control For Cricket in India (supra)*]

30. The term "immediately", therefore, must be construed having regard to the aforementioned principles. The term has two meanings. One, indicating the relation of cause and effect and the other, the absence of time between two events. In the former sense, it means proximately, without intervention of anything, as opposed to "mediately". In the latter sense, it means instantaneously.

31. The term "immediately", is, thus, required to be construed as meaning with all reasonable speed, considering the circumstances of the case. [See *Halsbury's Laws of England*, 4th Edition, Vol. 23, para 1618, p. 1178]

32. In a given situation, the term "immediately" may mean "within reasonable time. Where an act is to be done within reasonable time, it must be done immediately. [See *M/s. Gangavishan Heeralal v. M/s. Gopal Digambar Jain and Others*, AIR 1980 MP 119, *Keshava S. Jamkhandi v. Ramachandra S. Jamkhandi*, AIR 1981 Kar 97, *Ramnarayan v. State of M.P.*, AIR 1962 MP 93, *R. v. Inspector of Taxes*, (1971) 3 All ER 394 at 398 and *R. v. HU Inspector of Taxes*, (1972) 1 All ER 545 at 555] IN *Bombay Dyeing (supra)*, this Court observed:

"In 'The Interpretation and Application of Statutes', Reed Dickerson, at p.135 discussed the subject while dealing with the importance of context of the statute in the following terms: "... The

essence of the language is to reflect, express, and perhaps even affect the conceptual matrix of established ideas and values that identifies the culture to which it belongs. For this reason, language has been called "conceptual map of human experience".

33. In K.S. Muthu v. T. Govindarajulu and Anr. [2000 (4) SCALE 175], this Court opined:

".....In the circumstances when the Appellant was not in a position to perform the direction given by the Court in view of the holiday, the Court cannot expect the Appellant to perform what is impossible..."

34. In Crawford on Statutory Construction at page 539, it is stated:

"271. Miscellaneous Implied Exceptions from the Requirements of Mandatory Statutes, IN General.-Even where a statute is clearly mandatory or prohibitory, yet, in many instances, the courts will regard certain conduct beyond the prohibition of the statute through the use of various devices or principles. Most, if not all of these devices find their jurisdiction in considerations of justice. It is a well known fact that often to enforce the law to its letter produces manifest injustice, for frequently equitable and humane considerations, and other considerations of a closely related nature, would seem to be of a sufficient caliber to excuse or justify a technical violation of the law." [See also Dove Investments Pvt. Ltd. and Ors. v. Gujarat Industrial Inv. Corporation Ltd. and Anr. (2006) 2 SCC 619].

35. We, therefore, are clearly of the opinion that the High Court was not correct in holding that in the facts and circumstances of the case, the provisions of Order XXI Rule 84 had not been complied with."

Thus, if the conduct of the auction purchaser and the order of the Court on the memo filed by her on 02.04.2015 is taken into account and consideration, it must be held that the auction purchaser has acted with the necessary expediency and urgency and did deposit the 1/4th amount on the next working day namely 04.04.2015 as 03.04.2015 happened to be a public holiday on account of 'Good Friday'. Accordingly, I have no hesitation to hold that the contention canvassed by the learned counsel for the appellant that the action of confirmation of sale by the Executing Court is vitiated for failure to deposit 1/4th of the purchase money by the 4th respondent, auction purchaser on 02.04.2015 is without any merit. It should be remembered that the principle enunciated by the Supreme Court in Manilal Mohanlal Shah's case (AIR 1954 Supreme Court 349)

has been considered in Rosali's case (AIR 2007 Supreme Court 998) and has understood the requirement of Rule 84 as to mean that any action taken by the purchaser with necessary speed and expediency after he/she was declared as the purchaser at Court sale amounts to compliance with the requirement of Rule 84. Therefore, the principle enunciated in Rosali's case by the Supreme Court is attracted in the instant case.

It will also be appropriate to notice that Section 10 of the General Clauses Act, 1897 sets out that any act or proceeding, directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

Similar is the principle underlying Section 4 of the Limitation Act, 1963. The underlying principle behind Section 10 of the General Clauses Act, 1897 and Section 4 of the Limitation Act, 1963 is that no act of the Court shall cause prejudice to any person. This is rested upon an equitable principle designed to give the parties concerned the full benefit for performing that part of the obligation thrust upon such a party within the period so fixed. In cases of the instant nature, the principle behind Section 10 of the General Clauses Act gets attracted.

Above all, clause 2 of Rule 90, Order XXI CPC requires the J.Dr. to demonstrate the substantial injury sustained by him by reason of any irregularity or fraud either in publishing or conducting the sale of immovable property, for the Court to be satisfied to set aside the sale so conducted. It is thus, clear that it is not every irregularity, which can fetch a satisfaction for the Court to set aside the sale conducted. The irregularity must be of such a grave nature and magnitude that it should result in causing substantial injury to the interest of the J.Dr.

The Supreme Court has spelt out the principle in this regard in “Saheb Khan v. Mohd.Yusufuddin and others^[3]” in the following words of Justice Ruma Pal speaking for a three-Judge bench:

“Therefore before the sale can be set aside merely establishing a material irregularity or fraud will not do. The applicant must go further and establish to the satisfaction of the court that the material irregularity or fraud has resulted in substantial injury to the applicant. Conversely even if the applicant has suffered substantial injury by reason of the sale, this would not be sufficient to set the sale aside unless substantial injury has been occasioned by a material irregularity or fraud in publishing or conducting the sale. (See: Dhirendra Nath Gorai and Suibal Chandra Shaw and Ors. v. Sudhir Chandra Ghosh and Ors.(1964) 6 SCC 101; Jaswantlal Natvarlal thakkar v. Sushilaben Manilal Dangarwala and Ors. (1991) Supp.2 SCC 691; Kadiyala Rama Rao v. Gutala Kahna Rao (dead) by L.Rs and others (2000)3 SCC 87).”

In the instant case, no such substantial injury suffered by the J.Dr. was either urged or demonstrated.

Hence, I do not find any merit in the appeal preferred by the Judgment Debtor and hence it deserves to be dismissed.

The Civil Revision Petition is preferred against the order passed on 10.02.2015 by the Executing Court in E.P.No.207 of 2014. The E.P.No.207 of 2014 is filed under Rules 64 and 66, Order XXI CPC. The J.Dr. raised an objection about the maintainability of the Execution Petition on the ground that the decree was passed by the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad and without transferring the same, no execution petition can be filed directly before the Court at Ranga Reddy District. As was noticed supra, that objection was rejected as the assertion was factually incorrect. The decree was in fact transferred by the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad to Ranga Reddy District and received in the District Court, Ranga Reddy on 18.10.2014, whereas the Execution Petition was filed thereafter on 20.10.2014.

The next objection raised by the J.Dr. was that he preferred an

appeal in ASSR.No.12082 of 2014 and the same is pending. Except mentioning that an appeal was preferred, the J.Dr. could not furnish either the regular number assigned to such an appeal or as to the fate of any stay application moved therein. Therefore, the Executing Court found no impediment in proceeding with the execution of the decree.

Since both the objections raised by the J.Dr. against the maintainability of the Execution Petition are without any merit, rightly, the Executing Court has passed orders on 10.02.2015 rejecting the objections of the J.Dr. and directing the D.Hr to file the estimated value of the attached immovable property, for proclamation of sale thereof to be drawn.

I do not find any merit in the revision either and hence it also deserves to be dismissed.

Accordingly, the Civil Miscellaneous Appeal and Civil Revision Petition stand dismissed. No order as to costs.

The miscellaneous petitions, if any pending in the appeal and revision, shall stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

21.08.2015
Ksp

Note: Mark L.R.Copy.

Note: Issue C.C. by 24.08.2015

B/o
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**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

CIVIL MISCELLANEOUS APPEAL No.421 OF 2015

Between:

Ch.Mahender

... Appellant.

And

D.Venkat Reddy and 3 others.

... Respondents.

CIVIL REVISION PETITION No.1346 OF 2015

Between:

Ch.Mahender

... Petitioner.

And

D.Venkat Reddy and 2 others.

... Respondents.

DATE OF JUDGMENT PRONOUNCED:218.08.2015

SUBMITTED FOR APPROVAL:

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THE HON’BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | No |
| 2. Whether the copies of judgment may be marked
to Law Reporters/Journals | Yes |
| 3. Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? | No |

[\[1\]](#) AIR 1954 Supreme Court 349

[\[2\]](#) AIR 2007 Supreme Court 998

[\[3\]](#) AIR 2006 Supreme Court 1871