

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

CIVIL REVISION PETITION NO.2598 OF 2015

Between:

AGVVN Satyanarayana
... Petitioner

and

Challa Dhanalakshmi and another
... Respondents

DATE OF JUDGMENT PRONOUNCEMENT : 21st JULY, 2015

SUBMITTED FOR APPROVAL:

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THE HON’BLE SRI JUSTICE SANJAY KUMAR

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

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2598 OF 2015

ORDER

This civil revision petition under Article 227 of the Constitution arises out of the order dated 06.04.2015 passed by the learned First Additional Junior Civil Judge, Tanuku, dismissing E.A.No.311 of 2014 in E.P.No.13 of 2012 in O.S.No.79 of 1996. The said E.A. was filed by the petitioner herein, being the first judgment debtor in the suit, under Order 16 Rules 1 and 14 read with Section 151 CPC to summon the decree holder, the first respondent herein, to give evidence as a witness or as a Court witness in the interest of justice.

Execution proceedings were filed by the first respondent/decreed holder for delivery of the E.P. schedule property pursuant to the decree dated 11.08.2006. The decree holder, as per the cause title, is aged about 80 years. She did not examine herself or any other witness on her behalf during the execution proceedings. The executing Court therefore opined that it could not compel any party to be a witness. Further, the executing Court observed that the petitioner/first judgment debtor in the E.P. could establish his own case by examining witnesses but could not summon the decree holder as a witness to prove his case. The executing Court therefore found no merit in the application and accordingly dismissed it.

Heard Sri M.V.Durga Prasad, learned counsel for the petitioner/first judgment debtor, and Sri MRS Srinivas, learned counsel appearing for Sri B.S.N.Naidu, learned counsel on caveat for the first

respondent/ decree holder.

The affidavit filed in support of the E.A. by the petitioner/first judgment debtor herein does not disclose as to why examination of the decree holder was required in the interest of justice. The admitted fact between the parties was that the E.P. schedule property is not in existence as on date. Whether it was demolished or collapsed on its own is an issue which is to be examined by the executing Court independently. Consequences flowing there from would also have to be adjudicated. Examination of the decree holder in this regard is wholly an exercise in futility. The order passed by the executing Court holding to that effect therefore warrants no interference by this Court.

The Civil Revision Petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed in consequence. No order as to costs.

SANJAY KUMAR, J

21st JULY, 2015

PGS