

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.2886 of 2011

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ORDER:

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This Civil Revision Petition is filed under Section 115 CPC challenging the order dt.17-04-2009 in E.P.No.267 of 2000 in O.S.No.177 of 1998 of the Principal Junior Civil Judge, Srikalahasti, Chittoor District.

2. The petitioners herein are defendant Nos.1 to 23 in the said suit.

Respondent Nos.1 and 2 filed the above suit for declaration of their title to the plaint schedule property and for a perpetual injunction restraining the petitioners from interfering with their peaceful possession and enjoyment of the plaint schedule property. They also sought for mandatory injunction directing the petitioners to remove the constructions made by them in the plaint-B schedule mentioned lands and sought a direction that if they do not obey the decision of the Court, respondents may be permitted to remove the said constructions by process of law.

3. By judgment dt.18-08-2000 the suit was dismissed, but the Court below declared that the petitioners herein were guilty of disobedience of the orders and they shall be detained in Civil prison for one month. No appeal was preferred against this decree and it has become final.

4. The respondents filed the E.P. for execution of the said decree.

5. The petitioners raised a plea in the Execution petition by way of counter that the suit was in no way connected with the E.P.

Schedule property and the property belong to the Revenue Department. They contended that the Revenue Department handed over the plaint schedule property to Prasanthi Mahila Mandali, Chelluru and the said Mahila Mandali constructed a building in Sy.No.66/3 and handed it over to the Rayalaseema Seva Samithi. The petitioners claimed that they have no knowledge about the schedule mentioned property in O.S.No.177 of 1998. It was also contended that the petitioners never disobeyed the orders of the Court.

6. By order dt.17-04-2009, the said E.P. was allowed, and the Court below held that the decree in the suit having become final, the Executing Court cannot go beyond it and has to execute the decree as it stands. It held that since the decree in the suit is to send the petitioners to civil prison for one month, it has no other go but to do that.
7. The learned counsel for petitioners contends that this order is erroneous; while dismissing the suit the Court below could not have directed arrest of petitioners; therefore, the impugned order has to be set aside. Alternatively he submitted that on tendering of apology, the petitioners may be directed to be released.
8. There is no dispute that the decree in the suit has attained finality and the said decree mandates that the petitioners be detained in civil prison for one month since they were guilty of disobedience of the orders of the Court. The Court below, being an Executing Court, cannot go behind the decree. It is not the case of petitioners that the Court below had no jurisdiction to pass the said order.
9. Therefore, I do not find any merit in the Revision and accordingly

it is dismissed. No costs.

10. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 10-06-2015

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