

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

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CIVIL REVISION PETITION No.2524 of 2013

ORDER:

This Revision is filed challenging the order in E.A.No.75 of 2011 in E.P.No.4 of 2009 in O.S.No.25 of 2007 on the file of

II Additional District Judge, West Godavari, Eluru.

2. The respondent herein obtained a decree against the petitioner restraining the petitioner from addressing the respondent as Mohd.Suleman, S/o Qumar Sultana. An appeal against this decree together with an application for condonation of delay was filed by the petitioner. The said application was dismissed. Thereafter, an application for review of the said order was filed, which was also dismissed. A Special Leave Petition, which was filed, also came to be dismissed.

3. E.P.No.4 of 2009 was filed by the respondent against the petitioner under Order 21 Rule 32 CPC alleging that the petitioner had violated the said injunction order and continued to describe the respondent as son of Qumar Sultana and therefore to detain him in a civil prison and also attach and sell his property for wilful and persistent disobedience of the decree dated 02.07.2007

in O.S.No.25 of 2007 on the file of the Principal District Judge, Eluru.

4. The petitioner herein filed a counter opposing the said petition.

5. The petitioner also filed E.A.No.75 of 2011 to stay all further proceedings in E.P. till the disposal of A.S.No.280 of 2009 on the file of this Court.

6. The main contention is that the said appeal arises out of a decree in O.S.No.14 of 2006 where the legitimacy of the respondent is directly and substantially in issue; therefore, till the appeal is decided, the proceedings in the said EP should be stayed.

7. By order dated 16.04.2013, the Court below dismissed the said E.A. It held that even if that appeal is allowed, the decree in O.S.No.14 of 2006 which would then be passed will not override the decree in O.S.No.25 of 2007 and the latter had attained finality.

8. Learned counsel for the petitioner seeks to contend that the decree in O.S.No.25 of 2007 is not executable.

Such a plea cannot be raised for the first time in this Revision, when it is not raised in E.A.No.75 of 2011 filed by him. The E.P. is filed by respondent to punish the petitioner by arrest and attachment of his properties which is permissible under Order 21 Rule 32(1) CPC. The

respondent is seeking enforcement of the injunction decree granted in his favour as per the above provision of law. So it cannot be said that E.P. is not maintainable.

9. As rightly held by the Court below, any decree passed in A.S.No.280 of 2009 or O.S.No.14 of 2006 will not automatically override the decree in O.S.No.25 of 2007 and therefore, the execution proceedings in O.S.No.25 of 2007 cannot be stayed till the decision in A.S.No.280 of 2009.

10. So, I do not find any reason to interfere with the order passed by the Court below since it does not suffer from any error of jurisdiction. The CRP is accordingly dismissed. No costs.

The Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

M.S.RAMACHANDRA RAO,
J

June 12th, 2015.
ssp