

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

C.M.S.A. No.3 of 2015

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19.03.2015

Between:

Kandula Vijaya Lakshmi

...Appellant

And

Chimata Showbhagya Lakshmi and others

...Respondents

Counsel for the appellant: Sri K.Jyothi Prasad,
for Sri K.Sarvabhouna Rao

Counsel for respondents: ---

The Court made the following:

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JUDGMENT:

This appeal arises out of the judgment and decree, dated 07.10.2014, in A.S.No.55 of 2012 on the file of learned I Additional District Judge, Machilipatnam, Krishna District, whereby he has confirmed the order, dated 26.06.2012 in I.P.No.18 of 2007 on the file of learned Senior Civil Judge, Gudivada.

Respondent No.1 filed the aforesaid Insolvency Petition (I.P.) on the ground that she is heavily indebted. However, she filed I.A.No.449 of 2012 to permit her to withdraw the I.P. on the ground that she has discharged all the debts. The appellant was impleaded as respondent No.2 in the said I.A. The trial Court allowed the said I.A. by dismissing the I.P. and directing the Official Receiver to hand over possession of the property to the person from whom he has taken possession. Feeling aggrieved by the said order, the appellant filed A.S.No.55 of 2012. It is her pleaded case that respondent No.1 handed over physical possession of the property to her in pursuance of orders of the trial Court through agreement of sale – cum- general power of attorney and that she, in turn, sold the property to third party. While she had no objection against dismissal of the I.P., her grievance is limited to the direction issued by the trial Court to the Official Receiver regarding delivery of possession of the property. However, the lower appellate Court dismissed the appeal mainly on the ground that the vendee – Motepalli Veramma, had already filed O.S.No.52 of 2008 before trial Court seeking declaration of her title, and that the rights of the parties need to be adjudicated in the said suit. While this reasoning of the lower appellate Court appears to be plausible, there

is a more formidable reason on which the appellant's appeal suit ought to be dismissed, viz., that the trial Court had directed the Official Receiver to deliver possession of the property to the person from whom he has taken possession. If the Official Receiver has taken possession of the property either from the vendee of the appellant or the appellant herself, under the said order the Official Receiver is bound to deliver the same to either of them. Therefore, I do not find any reason whatsoever for the appellant to feel aggrieved by the said direction issued by the trial Court. In that view of the matter, I do not find any merit in this appeal.

The C.M.S.A. is accordingly dismissed.

As a sequel to dismissal of C.M.S.A., C.M.S.A.M.P.No.6 of 2015 filed by the appellant for interim relief shall also stand dismissed.

(C.V.NAGARJUNA REDDY, J)

19th March, 2015

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