

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.2807 of 2014

ORDER:

The revision petitioner is the 1st defendant/1st respondent-cum-1st judgment debtor among the three judgment debtors in E.P. No.6 of 2012. The plaintiff, decree holder, in O.S. No.11 of 1983 on the file of Senior Civil Judge, Nirmal, which was a suit for partition, under the alleged terms of the compromise in O.S. No.1981 of 1991 obtained compromise partition preliminary decree dated 06.08.2004 and pursuant to which appears to have been obtained a final decree dated 30.12.2011 and pursuant to which it appears E.P. No.2 of 2012 was filed. While the execution petition is pending against the three judgment debtors by said decree holder/plaintiff, there was a full satisfaction memo filed by the decree holder in the execution application for recovery of possession allegedly pursuant to the said final decree supra and the full satisfaction was recorded and E.P. proceedings are terminated, vide docket order dated 31.07.2013.

2) It is the said E.P proceedings terminated by recording full satisfaction memo of the decree holder, now impugned by the petitioner/1st judgment debtor of the E.P. in the present revision. The petitioner in the revision instead of showing how the termination of the E.P

proceedings by recording full satisfaction from the memo of the decree holder is unsustainable, raised several contentions as to the legality of the compromise preliminary decree, where from the terms of the compromise he received a cheque for Rs.3,00,000/- by relinquishing or giving up the undivided interest in the suit claim for partition and the said compromise preliminary decree was passed thereby and pursuant to which, undisputedly, a final decree was also passed and it is the same in execution in E.P. No.6 of 2012, for the executing Court cannot go beyond the decree unless shown the very decree under execution is without jurisdiction or null and void or unexecutable legally for any other reasons.

3) Having regard to the above, the grounds raised in the revision petition no way sustain for this Court to interfere, but for if at all to dispute the executability remedy is given to file a petition under Section 47 of C.P.C before the trial Court to show how the decree is not executable for the relief and how it requires interference from recording of full satisfaction on the memo of the decree holder as all questions relating to execution, discharge and satisfaction can be determined by the executing Court on an application under Section 47 C.P.C.

4) Accordingly and in the result, the revision petition is dismissed subject to above observations. There is no order as to costs. Pending miscellaneous petitions, if any,

shall stand closed.

28.07.2016
ksh

Dr. B. SIVA SANKARA RAO, J