

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
Civil Revision Petition Nos. 3818, 3828, and 3840 of 2015

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COMMON ORDER:

The claimant/3rd party in E.A.No.177 of 2011 in E.P.No.14 of 2011 filed three petitions to reopen the matter, to receive the documents and to recall P.W.1 for the purpose of further chief-examination and to mark documents vide in E.A.Nos.136 to 138 of 2015, on the file of the learned Senior Civil Judge, Rajole, East Godavari district. After hearing both sides, the learned trial Judge, allowed the three petitions supra, by separate orders dated 30.07.2015.

Impugning the same respectively, the 1st respondent/D.Hr. in all the three petitions supra, preferred these three revisions viz; CRP No.3818 of 2015 (against E.A.No.136 of 2015), CRP No.3828 of 2015(against E.A.No.138 of 2015 and CRP No.3840 of 2015(against E.A.No.137 of 2015).

Heard both sides and perused the material on record.

The revision 1st respondent/claimant filed E.A.No.177 of 2011 in E.P.No.14 of 2011 under Order XXI Rule 97 of CPC, for declaring the revision petitioner-D.Hr. has no right to execute the decree to take possession of the claim petition schedule property from him.

The E.P.No.14 of 2011 is filed for execution of the decree in O.S.No.14 of 2006 for recovery of decree debt against the property claimed of the J.Dr. by name Smt. Alluri Sathyavathy/revision 2nd respondent, by mentioning three survey numbers for different extents. The claim petition in E.A.No.177 of 2011 filed is for Ac.3-50cents out of the full Ac.3.66cents in Sy.No.331/2 and it correlates to item No.1 of the E.P. Schedule among the three items of the E.P. Schedule mentioned in the E.P. at column No.10.

It is one of the contentions of the claimant that E.A. No.151 of

2008 filed by him in E.P.10 of 2007 in another suit O.S.No.131 of 2005 filed by the D.Hr. herein, making a claim as that of the J.Dr. to recover and the same was on merits decided in favour of the claimant. It is therefrom in showing relevancy to support the claim petition and D.Hr. is not entitled to proceed against that item No.1 of the E.P. schedule, the additional evidence document sought for receiving by recalling P.W.1/claimant by reopening the matter when the matter is at the stage of arguments, the three applications were since allowed not only to receive the E.A.No.151 of 2008 order, but not other documents sought, the revisions are maintained.

As referred supra once there is a claim petition E.A.No.151 of 2008 is adjudicated for Sy.No.339/2 to the extent of Ac.2.50cents out of the total extent of Ac.3.66cents which is the claim petition schedule in E.A.No.177 of 2011 for item No.1 of the E.P. Schedule at paragraphs 10 of the E.P. same is only relief and not other documents thereby, the trial Court should have been permitted only to that extent.

Accordingly and in the result, the three revisions are disposed of by upholding the orders of the trial Court dated 30.07.2015 in E.A.Nos.136,137 and 138 of 2015 on the file of the learned Judge, Rajole, to the extent of re-opening and recalling P.W.1, but so far as receiving of documents concerned, the order is modified to receive only the order copy in E.A.No.151 of 2008. Pending miscellaneous petitions, if any, in these revisions, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:10.08.2016

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