

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.2945 OF 2012

ORDER:

This Civil Revision Petition by the petitioner/claimant under Section 115 of the Code of Civil Procedure, 1908 is directed the orders dated 15.03.2012 of the learned Senior Civil Judge, Nandigama, Krishna District passed in E.P.No.22 of 2008 in O.S.No.860 of 2006.

2. I have heard the submissions of the learned counsel for the revision petitioner/claimant ('the claimant', for brevity). There is no representation for the 2nd respondent. The 1st respondent is not yet served. The learned counsel for the revision petitioner would submit that in view of the subsequent events, the revision can be disposed of by passing appropriate orders. Perused the material record.

3. The facts that led to the filing of this Civil Revision Petition by the claimant, in brief, are as follows:

After obtaining a decree for recovery of money, the 1st respondent/decreed holder had filed the execution petition and brought the EP schedule property to sale for realisation of the decree debt *inter alia* contending that the said property belongs to the 2nd respondent/judgment debtor. However, the claimant had filed a claim petition before the executing Court. During the pendency of the claim petition, the property was brought to sale specifically mentioning that a claim petition is filed and pending. Eventually, the property was sold in a Court auction and was purchased by a third party. He had accordingly deposited the sale price and the other amounts, which are required to be deposited, as per law. However, the claimant, who is claiming interest in the property, paid the amount due directly to the decree holder and had filed a full satisfaction memo before the

executing Court and requested the Court to record full satisfaction and terminate the Execution Petition. On such a memo being filed, the third party/auction purchaser claimed the amount deposited by him before the executing court and received back the same on 04.04.2012. However, while refusing to record full satisfaction memo as prayed for, the executing Court recorded full satisfaction subject to certain terms. Thus, by the orders impugned in this revision, the executing Court while recording full satisfaction directed the claimant to pay to the auction purchaser 5% of the purchase money and further directed the judgment debtor to deposit poundage; and, the said Court further ordered that in case of non-payment of the said amounts by the claimant and judgment debtor respectively, the property is liable for re-auction for realisation of the said amounts and that the property shall be subject to charge in regard to the said amounts until further orders. Therefore, the aggrieved claimant had filed this revision.

4. This Court had earlier granted orders of stay. However on 03.02.2016, when it was represented by the learned counsel for the claimant that the claimant was prepared to deposit 5% of the purchase money, which is to be deposited by him as well as amount equivalent to poundage, which is payable by the judgment debtor, this Court permitted the claimant as well as the judgment debtor to comply with the directions in the orders impugned in the revision.

5. Now, while stating the events, which are stated supra, the learned counsel for the revision petitioner/claimant would submit that Rs.70,600/- towards 5% of purchase money, Rs.42,405/- towards poundage and Rs.2,009/- towards EP costs i.e., a total sum of Rs.1,15,014/- (Rupees one lakh fifteen thousand and fourteen only) is deposited before the executing Court vide challan no.20, dated 14.06.2016, and that therefore, the directions in the impugned order are complied with and hence, appropriate orders be passed in the revision.

6. In support of the said contentions, copies of the challan and the memo filed before the executing Court are produced before this Court.

7. Having regard to the submissions, this Court is satisfied that the revision can be disposed of with appropriate observations.

8. Accordingly, the Civil Revision Petition is disposed of recording that the claimant had deposited 5% of the purchase money, poundage as well as EP costs. As a sequel to such deposits, which are made before the executing Court, the conditions in the order impugned viz., 'the EP schedule property is again liable for auction for realization of the aforementioned sums, in case of failure to deposit the same, and that the EP schedule property shall be subject to charge until further orders' are hereby set aside. The EP schedule property shall accordingly stand released from the charge. There shall be no order as to costs.

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

M. SEETHARAMA MURTI, J

Date:14.07.2016

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