

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

CIVIL REVISION PETITION NO.1631 OF 2015

DATED:04-03-2016

Between:

Satyanarayana Murthy Kollepara ... Petitioner

And

Smt. M. Swarnalatha ... Respondent

COUNSEL FOR THE PETITIONER: Mr. M.V. Pratap Kumar, for  
Mr. M.V.S. Suresh Kumar

COUNSEL FOR THE RESPONDENT: Mr. T. Sreedhar

THE COURT MADE THE FOLLOWING:

ORDER:

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This civil revision petition arises out of order dt.10.4.2015 in E.P. No.112 of 2014 in O.S. No.861 of 2006, on the file of the II Additional District Judge, Ranga Reddy District.

The facts which are simple are sought to be complicated by the unreasonable approach of the respondent. The petitioner has succeeded in obtaining a decree for specific performance of an agreement of sale. During the pendency of the suit, the petitioner has deposited the balance sale consideration of Rs.9,50,000/- (Rupees nine lakhs and fifth thousand only) in a fixed deposit in a bank to show his bona fides. The respondent filed A.S. No.206 of 2014 feeling aggrieved by the said judgment and decree. This Court, having found the frivolous nature of the appeal, suggested an out of Court settlement. After consulting his client, the learned counsel for the respondent conveyed the willingness of his client to settle the dispute by receiving a sum of Rs.4,00,000/- (Rupees four lakhs only) in full and final settlement for the claim. Accordingly, the said appeal was dismissed as settled out of Court, by order dt.11.7.2014. Thereafter, the petitioner approached the lower Court by filing E.P. No.112 of 2014 for execution of sale deed and while allowing the said E.P. the Executing Court observed that since the petitioner has deposited the sale consideration in the Fixed Deposits (FDs), the interest accrued thereon shall go to the respondent – judgment debtor. Feeling aggrieved by the said finding, the petitioner filed this civil revision petition.

In my opinion, the petitioner is entitled to take interest accrued on the FDs, for more than one reason. While suggesting compromise, this Court has kept in mind the decree in the suit, which *inter alia*

directed that the defendant is at liberty to withdraw the balance of sale consideration of Rs.9,50,000/- as deposited in the Court. Thus, under the said decree, the respondent is not entitled to appropriate the interest accrued on the sum of Rs.9,50,000/-. Further, in the order dt.11.7.2014 this Court has mentioned that the sum of Rs.4,00,000/- payable by the petitioner to the respondent is in full and final settlement of her claim. Thus, it shall necessarily mean that in addition to the sum of Rs.9,50,000/- which the respondent is entitled to receive under the decree, she will also be entitled to receive a further sum of Rs.4,00,000/- only. Any other interpretation of the decree and the order in A.S. No.206 of 2014, would cause serious prejudice to the interest of the petitioner and unduly enrich the respondent.

In the light of the above discussion, the order under revision to the extent of permitting the respondent to receive the interest accrued on the sum of Rs.9,50,000/- is set aside. The petitioner is permitted to withdraw interest accrued on the FDs.

The civil revision petition is accordingly allowed.

As a sequel to disposal of the civil revision petition, C.R.P.M.P. No.2188 of 2015 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

04-03-2016

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