

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.2081 of 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/decreed-holder, feeling aggrieved of the fact that the Court of execution, i.e., the Court of the learned I Additional District Judge, Ongole is not proceeding with the execution proceedings and is not disposing of E.P.No.11 of 2011 in O.S.No.60 of 2008 in accordance with the procedure established by law.

2. I have heard the submissions of the learned counsel for the revision petitioner. I have perused the material record.

3. The learned counsel for the revision petitioner/decreed-holder would submit that the decree-holder, having obtained the decree for specific performance and also a registered sale deed dated 08.08.2011 through process of law under Order XXI Rule 34 of the Code of Civil Procedure, 1908 ('the Code', for brevity) in E.P.No.5 of 2011, had filed the present execution petition for ordering delivery of scheduled property to the decree-holder and that during the pendency of the said execution proceedings, when a notice was issued to the judgment debtor, he had got filed E.A.No.31 of 2011 through his daughter Alikam Venkata Naga Devi under Order XXI Rules 97 to 100 of the Code to decide her right in regard to one-fourth share in the schedule property and that the said application was dismissed on merits by the Court of execution and that in the appeal in A.S.No.780 of 2013 filed by the said petitioner questioning the orders of the Court of execution, no stay has been granted by this Court, but still the Court of execution is not proceeding further to dispose of the execution petition filed for delivery of the schedule property by the decree-holder and that, therefore, the present Civil Revision Petition is filed.

4. At the hearing, it is submitted that when it is represented before this Court on an earlier occasion that the executing Court is not disposing of the Execution Petition for want of the material record in the execution application which is submitted for reference in A.S.No.780 of 2013 to this Court, this Court had directed the present revision petitioner/deeree-holder to take steps for seeking directions in the appeal for return of the material record to the Court of execution and that accordingly, ASMP No.1517 of 2015 was filed in the said appeal and that the said application was allowed by this Court on 26.08.2015 with a direction to transmit the entire material record to the Court of execution within one week therefrom and that despite the said order and the fact that the record was already transmitted to the Court of execution, the Court of execution is still not disposing of the Execution Petition.

5. Having regard to the submissions and the facts narrated *supra* which are undisputed, this Court is of the well considered view that this Civil Revision Petition can be disposed of with appropriate directions.

6. In the result, the Civil Revision Petition is allowed and the Court of execution, i.e., the Court of the learned I Additional District Judge, Ongole is directed to dispose of E.P.No.11 of 2011 in O.S.No.60 of 2008 in strict accordance with the procedure established by law by ordering further steps as contemplated under law, as expeditiously as possible, at any rate not later than a month from the date of receipt of a copy of this order. 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

15th February, 2016
Bvv

