

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.1727 of 2016

ORDER:

The revision petitioner is the unsuccessful petitioner in E.A.No.204 of 2015 filed under Order VII Rule 14 of CPC., to receive documents on his behalf to exhibit in the claim petition E.A.No.75 of 2014 in E.P.No.5 of 2013 filed by him against bringing the property to sale pursuant to the decree in O.S.No.104 of 2012 on the file of the learned Senior Civil Judge, Yelamanchili. The documents sought to be received to exhibit are certified copy of I.P.No.27 of 2012 on the file of the VII Additional District Judge, Visakhapatnam and original paper publication dated 28.03.2015 concerning I.A. notices. The reasons assigned are that he came to know of the I.P.No.27 of 2012 filed recently and secured the documents which are essential in the claim petition to exhibit. The counter filed by the respondents in opposing the petition is stating that the allegation is untrue and the list of documents sought to be received no way concerned to the present proceedings or in relation to E.P. Schedule and thereby the petition deserves to be dismissed.

The petition E.A.No.204 of 2015 is accordingly dismissed vide order dated 29.02.2016 with observation of there is no explanation for the delay in filing the documents to receive and as to how the documents shown in the list are relevant and the fact of 2nd defendant filed I.P.No.27 of 2012 against the creditors including the Decreeholder-1st respondent and its pendency at the stage of service of notices through paper publication no way relevant for nothing explained of relevancy.

It is now impugned in the revision contending that the order is baseless, unsustainable and pre-matured to consider relevancy and admissibility at the time of receiving documents sought for.

Whereas, it is the contention of the learned counsel for the respondents herein that the order of the trial Court holds good and within the limited scope of revision by sitting against the order, for this Court there is nothing to interfere.

Heard and perused the material on record.

The very affidavit petition shows that he came to know recently

about proceedings in I.P.No.27 of 2012 at the stage of service of notice by paper publication and the observation by the trial Court of there is no explanation for the delay is thereby untenable.

Coming to relevancy and admissibility, it is pre-mature to decide but for while marking if at all subject to objection about relevancy and admissibility to decide ultimately as the law is very fairly settled in this regard from the expression of the Apex Court in **Bipin Shantilal Panchal vs State Of Gujarat**^[1].

Having regard to the above, the revision petition is allowed directing the trial Court to receive the documents and if any objection while receiving with regard to relevancy and admissibility, the same is left open to the trial Court to decide. There is no order as to costs.

Dr. B. SIVA SANKARA RAO, J

Date:02.08.2016
Vvr

^[1] AIR 2001 SC 1158