

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.3171 of 2016

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners – judgment debtors, challenging the order dated 06.04.2016, passed in E.P.No.56 of 2011 in O.S.No.116 of 2009 by the Senior Civil Judge, Nizamabad, allowing the Execution Petition filed by the respondent – Decree holder for recovery of a sum of Rs.1,70,866/- with interest @ 12% per annum and costs due by the deceased – Judgment Debtor No.1, whose legal representatives were brought on record as Judgment Debtor Nos.2 and 3 in the month of November, 2015, rejecting the stand of the petitioners – Judgment Debtors that the properties under attachment were subject properties of Lavani Patta, issued in favour of the deceased – Judgment Debtor No.1.

2. Petitioners are the Judgment Debtors and respondent is the Decree holder in E.P.No.56 of 2011 in O.S.No.116 of 2009. For the sake of convenience, the parties are referred to as they are arrayed before the Executing Court.

3. The Executing Court allowed the Execution Petition, while rejecting the stand of the Judgment Debtors, mainly on the ground that – (1) the original Lavani Patta was not filed

into Court during enquiry in the Execution Petition, though, such a plea was taken in the counter; (2) part of Item No.1 of the E.P. Schedule properties was sold away, of-course, even prior to the date of attachment, which is contrary to the stand of the Judgment Debtors that the subject properties were covered by Lavani Patta; and (3) the Pahani Pathrika filed in the Court was signed by the Village Revenue Officer and not a certified copy of entry from the Pahani Register.

4. Sri K. Rama Subba Rao, learned counsel for the petitioners - Judgment Debtors, while admitting that, part of E.P. Schedule property was sold under a registered Sale Deed, submits that a copy of Pahani filed by the Judgment Debtors, though, was issued by the Village Revenue Officer, it was not counter-signed by the Deputy Tahsildar, Vailpur Village, by then, still, a copy of Pahani, attested by the Deputy Tahsildar, is now filed, as one of the material papers and, therefore, requests to remand the matter to the Executing Court for conducting enquiry, afresh, in ascertaining, whether the property under attachment, which is now available in the Execution Petition for taking further steps, is Lavani Patta lands or otherwise.

5. *Per contra*, Sri K. Venu Madhav, learned counsel for the respondent - Decree holder, would submit that the Decree holder has obtained a Certified copy of the Pahani and it would reflect that the entry under vertical column No.6, was

recorded as Patta lands, but not as Lavani Patta lands and, in fact, placed a copy of the same by way of a Memo dated 29.08.2016 across the Bench for perusal of this Court. It is his submission that even the copy, which was filed by the Judgment Debtors along with the material papers, is not a Certified copy and hence it is not at all an authenticated one.

6. Heard learned counsel for the parties and perused the order under challenge.

7. The Executing Court has assigned valid reasons in passing the order under challenge, referring to the conduct of Judgment Debtors in effecting the sale. So far as item No.1 of the E.P. Schedule property is concerned, it is an agricultural land in an extent of Acs.1.13 ½ guntas, concerning which, a registered Sale Deed was executed by the deceased - Judgment Debtor No.1, of-course, even prior to the attachment being effected, since the attachment was effected on 28.03.2012 and Item No.1 of the E.P. Schedule property was sold on 02.08.2011. However, concerning the other item of E.P. Schedule property, which is Ac.0.36 guntas, the Executing Court recorded a finding that the Judgment Debtors failed to submit original Lavani Patta in respect of the said property and only filed Pahani, which was issued by the Village Revenue Officer, but was not counter-signed by the Tahsildar/Mandal Revenue Officer and, thus, allowed the

Execution Petition, by rejecting the stand of the Judgment Debtors, by order dated 06.04.2016.

8. The fact that the original patta was not filed into Court cannot be disputed by the Judgment Debtors. No reasons are assigned in omitting to file original patta. On the other hand, the very fact that major chunk of the E.P. Schedule property was sold away by the deceased - Judgment Debtor No.1 and even registered by the Registering Authority concerned, certainly, stands adverse to the stand taken by the Judgment Debtors that the subject lands were got by the deceased - Judgment Debtor by virtue of Lavani Patta. So far as the entries in the Revenue records are concerned, a xerox copy of *the Pahani, no doubt, shows that it is said to have been attested by the Deputy Tahsildar, Vailpur village, and under column No.6, it shows an entry as Lavani Patta, but, Certified copy of the Patta filed by the learned counsel for Decree Holder shows the nature of the lands as Patta lands only, but not Lavani Patta lands. The very fact that the original patta was not at all filed and no reasons were assigned in omitting to file the same is sufficient enough to reject the stand taken by the Judgment Debtors, which the Executing Court rightly did.

9. Therefore, there is no merit in the instant Civil Revision Petition and the same is liable to be dismissed.

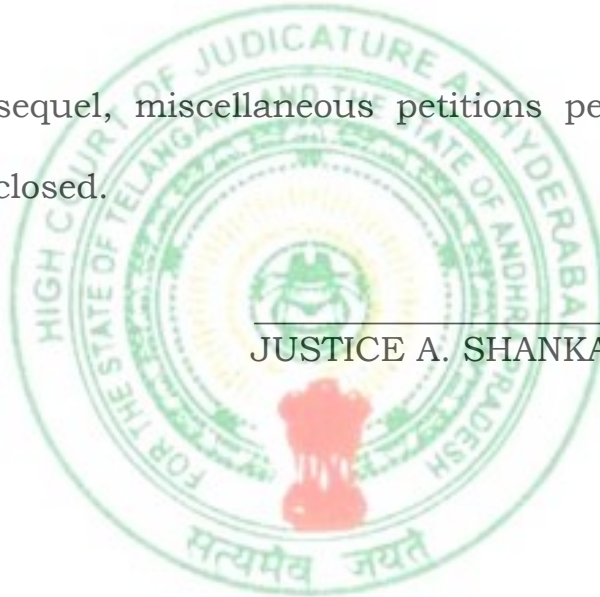
10. However, it is open to the Judgment Debtors to submit the original Lavani Patta, if they can trace it out, before the Executing Court, by the next date of hearing, as the order under challenge would show that the Execution Petition was posted for test of Item Nos.2 and 3 of the E.P. Schedule properties.

11. Subject to the above observation, the Civil Revision Petition is dismissed, at the admission stage. No order as to costs.

12. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

29.08.2016.
Msr

JUSTICE A. SHANKAR NARAYANA



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