

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.757 of 2016

ORDER :

This revision is preferred questioning order dated 06.02.2015 in E.A.No.150 of 2014 in E.P.No.127 of 2014 in O.S.No.139 of 2013 on the file of Principal Junior Civil Judge, Kadapa.

2. The revision petitioner herein is judgment-debtor in the above referred E.P. and in that E.P., E.A.No.150 of 2014 is filed to reopen the execution petition and to receive document dated 16.03.2014 said to be a receipt passed by decree-holder in token of receipt of decretal amount and that application was resisted by decree-holder on the ground that judgment-debtor has come up with manipulated receipt and the custody of the document is also not properly explained and if really there was a receipt of that nature, it has to be filed within 30 days from the date of receipt into the Court and on these grounds, prayed for dismissal of the application. The Court below on a consideration of contentions and rival contentions of both parties, dismissed the application and aggrieved by the same, present revision is preferred.

3. Heard both sides.

4. Advocate for revision petitioner submitted that

judgment-debtor has paid the entire amount to decree-holder in the presence of elders by name S. Subba Reddy and D.Venkata Ramana, residents of Nabikot Street, Kadapa, on 16.03.2014 and decree-holder also issued a receipt in token of that amount and handed over the receipt to the mediators and as the judgment-debtor has not received the said receipt from the mediators, in order to prove the discharge, document has to be received as evidence and judgment-debtor has filed application to reopen the case and also to receive the document and the Court below without giving any opportunity to judgment-debtor dismissed the application. He submitted that an opportunity may be given to revision petitioner to prove her case.

5. On the other hand, learned counsel for respondent-decree-holder submitted that revision petitioner is a judicial employee and no prudent person would fail to keep such receipt with her if really amount is paid to decree-holder. He further submitted that any such receipt has to be filed within 30 days and get the full satisfaction recorded and as the judgment-debtor has not done these two aspects, the Court below rightly dismissed the application and that there is no jurisdictional error in the order of lower Court to interfere.

6. Now the point that would arise for my consideration in this revision is:

Whether the order dated 06.02.2015 in E.A.No.150 of 2014 in E.P.No.127 of 2014 in O.S.No.139 of 2013 on the file of Principal Junior Civil Judge, Kadapa, is legal, proper and correct?

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POINT :

7. As seen from the record, judgment-debtor is examined herself as RW.1 and in her chief-examination she stated that she paid the entire amount to decree-holder in the presence of S.Subba Reddy and D.Venkata Ramana and decree-holder passed a receipt in their presence and receipt was handed over to the mediator by name D.Venkata Ramana and it is now under the custody of D.Venkata Ramana and as she has discharged the entire amount, E.P. has to be dismissed. She further stated in her chief-examination that she is taking necessary steps to examine the said mediator to give evidence in the above E.P. by producing the receipt before the Court. This chief-affidavit was dated 11.11.2014 and the application is filed in December, 2014 to reopen the case on behalf of petitioner. If really the revision petitioner is prudent and interested, she ought to have filed a petition to summon the mediators to support her version of discharge. But, she only filed petition to reopen the case, that means after closure of her evidence

she came forward with reopen petition to receive document dated 16.03.2014. Nothing is stated in the affidavit filed in support of the petition as to how she got the custody of that document when she assertively stated in her chief affidavit that the alleged document was in possession of D.Venkata Ramana and that she wants to examine him to produce the document. As rightly pointed out by advocate for decree-holder even if such a receipt is in existence, judgment-debtor is expected to file that receipt into the Court within 30 days from the date of receipt and get the full satisfaction recorded. But, admittedly no such steps are taken and considering these aspects, the trial Court dismissed the application.

I do not find any wrong in the order of the learned Principal Junior Civil Judge nor any jurisdictional error to interfere by exercising the revisional powers. When judgment-debtor is a judicial employee, she should be more cautious and burden is heavy on her to get the full satisfaction recorded in accordance with law. For these reasons, I am of the view that the revision is devoid of merits and that there are no grounds to interfere with the order of trial Court.

8. Accordingly, this revision is dismissed.

9. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

14th June 2016.

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