

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRP No.558 of 2011

Date:24.08.2016

Between:

Yerrapareddy Subrahmanyam and others.

... Appellant.

AND

Yerrapareddy Polaiah

...Respondent.

The Court made the following :



THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRP No.558 of 2011

JUDGMENT:

This revision is preferred against order dated 09-12-2009 in E.A.No.47/2009 in E.P.No.737/2008 in O.S.No.286/2003 on the file of Principal Junior Civil Judge, Nellore.

2. Revision petitioners herein are judgment debtors in the above referred E.P., and the decree holder filed above referred E.P., for arrest of the judgment debtor and his detention in civil prison for violation of injunction decree. E.P., is filed under Order 21 Rule 11 (2) CPC. In that E.P., decree holder filed E.A., seeking police aid and that application was allowed mainly on the ground that the Judgments Debtors did not file any counter in spite of giving opportunity to them.

3. Heard both sides.

4. Both sides advanced their arguments in S.A.No.496/2011 & S.A.No.908/2013 along with this revision. Today both the Second Appeals are dismissed at admission stage. Now as seen from the proceedings sheet, this Court granted interim suspension of the impugned order dated 09-12-2009. From the submissions of both sides, it appears the main E.P., which was filed for violation, is still pending and as rightly pointed out by Advocate for revision petitioners instead of deciding whether there is any violation or not, the Court below was not justified in deciding the E.A., granting police aid only on the ground that the other side has not filed any counter. Therefore, without going into other aspects, I feel that the impugned

order dated 09-12-2009 is liable to be set aside, directing the Court below to decide the main E.P., and pass appropriate orders on this application afresh as per the findings recorded in the main E.P.

5. Accordingly, CRP is allowed and the impugned order dated 09-12-2009 in E.A.No.47/2009 in E.A.No.737/2008 in E.P.No.286/2003 on the file of Principal Junior Civil Judge, Nellore is set aside and Court below shall decide this E.A., along with the main E.P. No costs.

6. As a sequel, miscellaneous petitions, if any, pending in this revision, shall stand disposed of.

Date:24.08.2016
mrb

JUSTICE S. RAVI KUMAR

