

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION NO.3045 OF 2015

ORDER:

This Civil Revision Petition is filed against the report, dated 03-06-2015 of the Field Assistant, Principal Junior Civil Judge, Nandigama, Krishna District delivering possession pursuant to the order, dated 25-05-2015 in E.P.No.21 of 2015 (E.P.No.3 of 2015 in O.S.No.6 of 2013 of Vacation Court) on the file of the XVI Additional District Judge, Nandigama, Krishna District.

2. Learned counsel appearing for the petitioner submits that the report, dated 03-06-2015 delivering possession is contrary to the order of this Court, dated 03-06-2015 in ASMP No.652 of 2015 in A.S.No.218 of 2015, which was filed challenging the judgment and decree in O.S.No.6 of 2013. This Court passed the order, dated 03-06-2015, which reads as follows:

“After hearing for a while, learned counsel for the petitioners brought to the notice of this court the notice issued by XVI Additional District Judge, Nandigama, Krishna District, in E.P.No.3 of 2015 in O.S.6 of 2013, whereby the respondent/J.Dr was called upon to file objections, if any, in the execution petition filed for delivery of the property on or before 10-06-2015.

Learned counsel for the first respondent asserted both in counter affidavit and during argument that the E.P. was filed, the property was delivered to the auction purchaser on 30-05-2015 in the presence of mediators and delivery receipt was also passed on the same day.

But, in view of the notice, when the petitioner was called upon to file objections against delivery of possession, I feel that it is better to call for records from the executing court.

Therefore, the Registry is directed to call for execution record including delivery proceedings, if any effected, in E.P.3 of 2015 in O.S.6 of 2013 on the file of the court of XVI Additional District Judge, Nandigama, Krishna District, through Special messenger, for perusal of this court and return after disposal of the petition.

In the meanwhile, the executing court is directed not to record delivery. Call on 10-06-2015.”

3. Subsequently, on 15-06-2015, the order passed by this Court earlier was modified, which reads as follows:

“This Court by order, dated 03-06-2015 directed the XVI Additional

District Judge, Nandigama, Krishna District, not to record delivery & possession of the property in the execution petition. However, as seen from the record, delivery of the property was already effected. In view of this fact, it is left open to the petitioners to challenge the delivery by separate legal proceedings. Hence, the order of this Court dated 03-06-2015 is hereby modified leaving it open to the petitioners to challenge the same.

In view of the submission made by both learned counsel for the petitioners and the respondents, passing of decree for payment of mesne profits is hereby stayed while permitting to go on enquiry to ascertain mesne profits.”

4. The present revision is filed as aforesaid challenging the report, dated 03-06-2015. The report is consequential proceedings and unless the main proceedings are challenged, the present revision is not maintainable.

5. Accordingly, the Civil Revision Petition is dismissed. However, it is open to the petitioner to take appropriate steps in accordance with law. No order as to costs. Miscellaneous petitions, if any pending in this petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 20-01-2016

Hsd