

THE HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.614 OF 2016

ORDER:

The revision is directed against the order dated 09.12.2015 in E.P.No.47 of 2012 in O.S.No.122 of 2009 in the Court of Principal District Judge, Nellore. The executing Court through the order impugned in the revision ordered proclamation and sale of EP schedule property of the revision petitioner.

The order passed by the Court below reads as follows:

“J.Dr. is called absent and no representation is made even though it is called twice by passing it over till 12.25 p.m. Heard petitioner's counsel. Proclaim and sell on 10.2.2016. Further hearing 17.2.2016. Publish in Eenadu daily District edition of Nellore.”

On 05.02.2016, this Court while ordering notice before admission granted interim stay of all further proceedings in E.P.No.47 of 2012 in O.S.No.122 of 2009 including auction scheduled to be held on 10.02.2016, subject to condition of the revision petitioner depositing one-third of the E.P amount within three weeks there from and another one third was directed to be deposited. It is matter of record that the condition imposed by this Court is complied with. It is stated that as on date the balance payable is one third. At the time of hearing, learned counsel appearing for the parties made detailed submissions on the merits and demerits of the order under revision.

Prima facie, after perusing the findings of the Executing Court excerpted above, this Court is of the view that no exception

can be taken to the reasons recorded by the executing Court.

The learned counsel appearing for the petitioner submits that the revision petitioner may be given three more months time to deposit one-third of the EP amount. The counsel appearing for respondent submits that while disposing of the revision, this Court can consider granting reasonable time and confirm the findings of the executing Court and extend the interim order granted on 05.02.2016.

Having regard to the above submissions, while confirming the findings recorded by the executing Court, to meet the ends of justice, the revision is disposed of as follows:

“The revision is disposed of by extending the interim order by three more months from today subject to the revision petitioner depositing one-third of the EP amount. As regards two-thirds of the EP amount already deposited, if the respondent/decreed holder is so advised, he is permitted to withdraw the same without furnishing any security. Failure in complying with the condition, it is made clear that the interim stay shall stand vacated without reference to the Court and the executing Court can take further steps. There shall no order as to costs”.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J _____

Date:28.04.2016
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