

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.1525 OF 2016

DATED:01-04-2016

Between:

Ikkurthi Venkata Rathamma ... Petitioner

And

Thota Pedda Lakshmaiah ... Respondent

COUNSEL FOR THE PETITIONER: Smt. Deepika Gadde

COUNSEL FOR THE RESPONDENT: -

THE COURT MADE THE FOLLOWING:

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ORDER:

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This is a needless revision petition filed by the judgment debtor who not only suffered the decree and allowed it to become final, but also suffered a sale deed for the suit schedule property executed on her behalf by the Court itself, in execution of the decree for specific performance of an agreement of sale. The respondent has filed E.A. No.127 of 2012 in E.P.No.61 of 2006 in O.S. No.49 of 2009 on the file of the Principal Junior Civil Judge, Chilakaluripet, for a direction to the Court Amin to handover the property to the respondent which is in possession of the petitioner. The petitioner filed a counter affidavit wherein she has not denied the allegation that she is in possession of the property. By order dt.23.11.2015 the lower Court has directed delivery of possession of the property covered by Registered Sale deed dt.21.6.2012 to the respondent – decree-holder and submit compliance report by 14.12.2015. Feeling aggrieved by this order, the judgment debtor filed this revision petition.

At the hearing, Smt. Gadde Deepika, learned counsel for the petitioner, submitted that in view of the specific recital in the sale deed executed by the lower Court that the respondent is already in possession of the property, there was no need for the lower Court to appoint the Court Amin to deliver possession of the property to the respondent. This submission is wholly unsustainable. Even if the sale deed contains a recital that the respondent is in possession of the property, the petitioner has not denied in the counter affidavit the plea of the respondent that she is in possession of the property. Even if the respondent had paper possession, non-denial by the petitioner of her possession shows that she is in actual physical possession of the property which requires to be delivered to the respondent. In this view

of the matter, I do not find any error in the order of the lower Court.

The civil revision petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P.  
No.1930 of 2016 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

01-04-2016

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