

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.2163 OF 2016

ORDER:

1 Assailing the order, dated 18.03.2016, passed by the learned VIII Additional District & Sessions Judge, Medak in E.A.No.13 of 2016 in E.P.No.6 of 2015 in O.S.No.533 of 2013, the petitioner filed this Civil Revision Petition under Article 227 of the Constitution of India.

2 At the time of admission, this Court on 03.06.2016 directed the petitioner to take out personal notice to the respondent Nos.1 and 2 by way of registered post. However, the notices sent to the respondents were returned unserved with endorsements "no such person". Thereafter, on 04.08.2016 this Court directed the petitioner to serve notice on the respondents by way of substitute service and permitted to give paper publication in Namaste Telangana daily, Medak edition by mentioning the date of listing of the matter as 31.08.2016. In pursuance of the said direction, the petitioner has given a paper publication in Namaste Telangana daily of Medak edition on 07.08.2016. In spite of publication, there is no representation on behalf of the respondents Nos.1 and 2. Hence this Court is inclined to pass orders on merits.

3 Heard Sri E.V.V.S. Ravi Kumar, the learned counsel for the petitioner.

4 A perusal of the record reveals that the petitioner herein filed O.S.No.533 of 2013 on the file of the VIII Additional District & Sessions Judge, Medak against the respondent Nos.1 and 2 for recovery of Rs.51,14,381/- along with interest. After affording a reasonable opportunity to both parties, the trial Court decreed the suit on 30.04.2015. Thereafter, the petitioner filed E.P.No.6 of 2015 in the said suit seeking attachment of moveable properties of the respondents and the same was allowed. It is the case of the petitioner that as he has not realised the entire decretal amount, he filed E.A.No.13 of 2016 in E.P.No.6 of 2015 for attachment of immovable properties i.e. land and building of the respondents. The trial Court dismissed the petition on the sole ground that CRP No.277 of 2016 is pending on the file of this Court.

5 The learned counsel for the petitioner submitted that the petitioner filed E.A.No.2 of 2016 in E.P.No.6 of 2015 seeking police aid. The trial Court allowed the said petition on 06.01.2016. Feeling aggrieved by the orders of the trial Court in E.A.No.2 of 2016, some third parties have filed CRP No.277 of 2016. The fact remains that the trial Court dismissed the E.A.No.13 of 2016 on the ground that CRP No.277 of 2016 is pending on the file of this Court.

6 At the time of arguments, the learned counsel for the petitioner submitted that this Court disposed of CRP No.277 of 2016 on 28.03.2016 and filed copy of the said order.

7 In view of the fact that the CRP No.277 of 2016 has already been disposed of by this Court on 28.03.2016, which is the basis for the trial Court to dismiss the E.A.No.13 of 2016, the order passed in E.A.No.13 of 2016 in E.P.No.6 of 2015 in O.S.No.533 of 2013 by the trial Court is liable to be set aside.

8 Accordingly, this Civil Revision Petition is allowed, setting aside the order passed in E.A.No.13 of 2016 in E.P.No.6 of 2015 in O.S.No.533 of 2013 on the file of the Court of the VIII Additional District & Sessions Judge, Medak. The matter is remanded to the trial Court for disposal of E.A.No.13 of 2016 on merits and in accordance with law. No order as to costs. As a sequel, miscellaneous petitions pending in this Civil Revision Petition, if any, shall stand disposed of.

T. SUNIL CHOWDARY, J

Date: 12.09.2016

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