

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

TUESDAY THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND SIXTEEN

PRESENT
HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION NO. 2722 OF 2016

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Between:

Modugula Eswar Kalyan Reddy ... Petitioner

Vs.

Tripuraneni Hemalatha & Ors. ... Respondents

Counsel for the Petitioner: Sri Raja Reddy Koneti

Counsel for the Respondents: None appeared

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION NO. 2722 OF 2016

ORDER:

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Aggrieved by not entertaining E.A. [CFR].No. 1838 of 2016 in EP.No. 5 of 2014 in OS.No. 287 of 2000 on the file of the Court of XI Additional District Judge, Tenali, this Civil Revision Petition is filed by the petitioner-claimant.

2. Vide CRPMP.No. 3452 of 2016, the petitioner seek a direction to stay all further proceedings with regard to sale of house bearing Door No. 4-1, which is a RCC building in about 200 sq.yards in Tsunduru village and Mandal, Guntur district, as one of the item in EP.No. 5 of 2014 in OS.No. 287 of 2000 on the file of the Court of XI Additional District Judge, Tenali, pending disposal of this Civil Revision Petition.

3. Heard Sri Raja Reddy Koneti, learned counsel for the petitioner-claimant.

4. The first respondent herein obtained a money decree against respondents 2 and 3 for a sum of Rs.6,40,500-00 vide decree dated 19-10-2001. However, one of the judgment debtor; namely, Sri Modugula Sambhi reddy @ Narayan Reddy, died and

his legal representatives were brought on record. In execution of the said decree, the first respondent herein filed EP.No. 174 of 2007 in OS.No. 287 of 2000 for a sum of Rs.9,23,435/- before Additional District Judge, Guntur. However, on the point of jurisdiction the matter is now pending on the file of the Court of XI Additional District Judge, Tenali, in EP.No. 5 of 2014.

5. Learned counsel for the petitioner submits that petitioner filed E.A. [CFR].No. 1838 of 2016 in E.P.No. 5 of 2014 making a claim with regard to the house mentioned above. Notice was served on the respondents counsel . E.A. [CFR].No. 1838 of 2016 was returned on 22/4/2016 by the office of XI Additional District Judge, Tenali, raising objection with regard to its maintainability. It was represented on the very same day stating that E.A. [CFR].No. 1838 of 2016 is maintainable and if the office has any objection the same may be called at bench for passing appropriate orders on the question of maintainability of the E.A. However, the office again returned the same to comply the previous objection.

6. Learned counsel further submits that the objection raised by the office of XI Additional District Judge, Tenali, is illegal and the office has not returned the bundle as to what is the objection

with regard to its maintainability. When the matter is represented stating that the claim is maintainable, the matter should have been posted before the bench for passing appropriate orders or atleast as to what exactly is the objection with regard to the maintainability of the claim of the petitioner.

7. As can be seen from the material papers at page No.9 of this Civil Revision Petition, it appears that E.A. was returned on 22/4/2016 by the office of the aforesaid court on the ground as mentioned hereunder:

“How the petition is maintainable. It should be clarified within seven days.”

8. Counsel for the petitioner stated before the office of the aforesaid court as under:

“The petition is maintainable according to law. If the office has any objection may be called on bench. Hence represented. As the sale is posted to 25/4/2016. Hence, urgency.”

9. On 25/4/2016 the office of XI Additional District Judge, Tenali recorded as under:

“Previous objection is not complied within seven days”.

10. Now the learned counsel for the petitioner submits that

the E.A. filed by the petitioner is not posted before the bench and since the sale of property in question was put to sale on 13/6/2016 which is now postponed to 25/6/2016.

11. Keeping in view the averments made in this Civil Revision Petition and also considering the submission made by the counsel for the petitioner, this Court is of the view that the office of XI Additional District Judge, Tenali has no right to return the E.A. with objection. However, if the petitioner still insists that the objection may be technical before the court, therefore, it is the duty of the office to call the E.A. before the bench for passing appropriate orders. Only the Court has jurisdiction to give opinion and entertain whether the E.A. is maintainable or not.

12. In view of the above, this Court directs the office of XI Additional District Judge, Tenali to call and place E.A. [CFR].No. 1838 of 2016 in EP.No. 5 of 2014 in OS.No. 287 of 2000 before the bench forthwith. Consequently, the XI Additional District Judge, Tenali shall consider the E.A. [CFR].No. 1838 of 2016 and pass appropriate orders in accordance with law, since the sale of property in question is scheduled to be held on 25/6/2016.

13. Needless to state that the E.A. filed by the petitioner

shall be considered on the question of maintainability on or before 25/6/2016 and pass appropriate orders on merits and in accordance with law.

14. In view of the above, Civil Revision Petition is disposed of. No costs.

15. As a sequel, miscellaneous petitions if any, pending in this Civil Revision Petition shall stand closed.

KAIT. JUSTICE SURESH KUMAR

Date: 14/06/2016
Circulation No.
Court Master: I s L