

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.3147 of 2014

ORDER:

This revision petition by the Judgment Debtor is directed against the order, dated 16.08.2014, of the learned Principal Junior Civil Judge, Ponnur, passed in EP.no.7 of 2014 in OS.no.218 of 2001 filed under Order XXI Rule 32 of the Code of Civil Procedure, 1908.

I have heard the submissions of Sri C. Appaiah Sharma, learned counsel for the revision petitioner-Judgment Debtor ('the JDr', hereinafter) and of Sri Ghanta Sridhar, learned counsel for the respondent-Decree Holder ('the DHR', hereinafter). I have perused the material record.

By the orders impugned in this revision, the executing Court, while overruling the objections of the JDr, who is said to be a man aged 83 years, ordered his arrest for wilful violation of the decree and directed issuance of a warrant against him for his arrest and detention in civil prison.

At the hearing, learned counsel for the JDr would submit that as directed earlier by this Court, an undertaking affidavit was filed into this Court on 25.10.2016 undertaking that the JDr/ revision petitioner will not interfere with the possession and enjoyment of the decree schedule property by the DHR. He therefore requests that the undertaking may be recorded and the revision petition may be disposed of.

Learned counsel for the DHR would submit that there is a paddy crop in the schedule land of an extent of Ac.1.18 cents and that there is likelihood of threat at the hands of the JDr and that while recording the undertaking as given in the affidavit of the JDr, liberty may be reserved to the DHR to seek police aid, if necessary, from the executing Court for harvesting the paddy crop, in view of the imminent threat of interference from the JDr.

Having regard to the submissions, the Civil Revision Petition is disposed of setting aside the order impugned in the revision by recording the undertaking given in the affidavit of the JDr that he will not interfere with possession and enjoyment of the DHr over the petition schedule/ decree schedule property and that he will abide by the decree. It is needless to state that the DHr is at liberty to file an application for police aid, if necessary, before the executing Court. In case any such application comes to be filed, the executing Court shall give an opportunity of hearing to the JDr and dispose of the said application on its own merit in accordance with the procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

M. SEETHARAMA MURTI, J

16th December, 2016
Vjl

