

THE HON'BLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION No.4800 of 2016

ORDER:

This revision, filed under Section 115 of Code of Civil Procedure, challenges the order, dated 26-08-2016 passed by the Court of Prl. Junior Civil Judge, Ananthapuramu in E.P.No.384 of 2012 in O.S.No.21 of 2010.

Heard learned counsel for the petitioners and learned counsel for the respondents, apart from perusing the material available before this Court.

O.S.No.21 of 2010, instituted by the 1st respondent herein for declaration of title and for delivery of possession and mandatory injunction was decreed by the Court of Prl. Junior Civil Judge, Ananthapuramu on 03-09-2012. The 1st respondent herein, praying for enforcement of the said decree filed E.P.No.384 of 2012. The petitioners/judgment debtors resisted the said E.P. by contending that the Execution Petition cannot be enforced in the absence of identity of the property.

Learned Prl. Junior Civil Judge, Ananthapuramu by way of an order, dated 26-08-2016 allowed E.P.No.384 of 2012 directing issuance of delivery warrant and the said order is under challenge in the present revision.

It is contended by learned counsel for the petitioners that the order passed by the Court below is erroneous, contrary to law and the material available before this Court. It is further submitted that in the absence of possibility of identifying the schedule property the present E.P. cannot be maintained.

On the contrary, it is argued by learned counsel for the decree holder that there is no error nor there exists any infirmity in the impugned order, as such, the present revision is not maintainable and the order passed by the Court below is not amenable for any correction by this Court under Section 115 of the Code of Civil Procedure.

In the above back-ground now the issue that emerges for consideration of this Court is:

Whether the order passed by the Court below is in accordance with law?

There is absolutely no controversy on the reality that the decree rendered by the Prl. Junior Civil Judge, Ananthapuramu, on 03-09-2012, attained finality. A perusal of the Execution Petition clearly discloses that the schedule of property consists of specific boundaries.

In fact, the learned Prl. Junior Civil Judge took into consideration the said particulars furnished in the E.P. schedule. It is also significant to note that the Court below

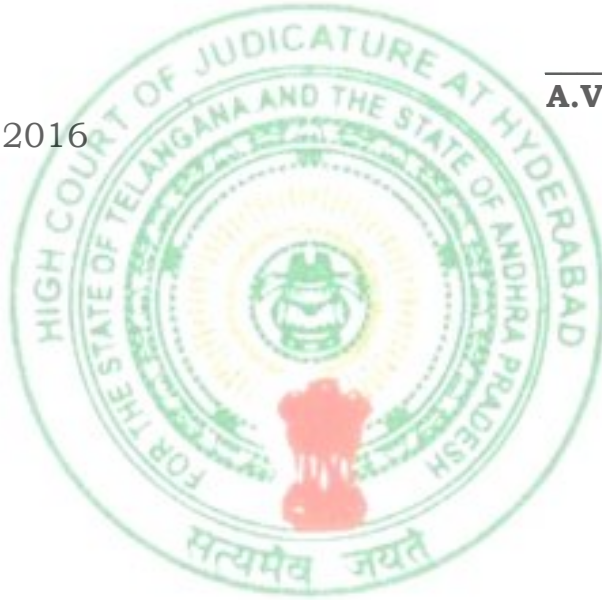
recorded a categorical finding as to the admission of RW-2 saying that she has no objection for delivery of E.P. schedule property. Therefore, this Court does not find any infirmity in the impugned order passed by the Court below.

For the aforesaid reasons, the Civil Revision Petition is dismissed. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

October 21, 2016

Pn



A.V. SESA SAI, J

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