

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.3197 OF 2017

ORDER

Heard learned counsel appearing for the petitioner.

This Civil Revision Petition is directed against the order dated 25.4.2017 passed in E.A.No.78 of 2017 in E.A.No.196 of 2015 in E.P.No.105 of 2011 in O.S.No.260 of 1999 by the Principal Junior Civil Judge, Chirala.

The petitioner herein is the judgment debtor, the 1st respondent herein is the decree holder and the 2nd respondent herein is the judgment debtor No.2.

The said suit was filed by the decree holder for recovery of an amount of Rs.99,071/- against the judgment debtors and the same was decreed on 4.12.2003 for Rs.78,723/-. Thereafter, E.P.Nos.3 of 2004 and 45 of 2009 were filed and they were dismissed on 26.09.2008 & 25.07.2011 respectively. Thereafter, E.P.No.105 of 2011 was filed by the decree holder. At that stage, the judgment debtor filed E.A.No.78 of 2017 to call for the original record in O.S.No.260 of 1999 from the Central Record Room, District Court, Ongole, for the purpose of marking entire

receipts and part-payment endorsement made by the decree holder.

A counter-affidavit was filed stating that it is unknown to law to summon the record as the Executing Court cannot go beyond the decree.

Considering the rival claims, the trial Court passed the following order:

“Upon considering the averments and counter averments and on perusal of relevant material on record it is found the respondent/D.Hr herein got obtained decree against petitioner/J.Dr way back on 4.12.2003 itself and subsequently filed two execution petitions in E.P.03/2004 and also E.P.45/2009 and which were dismissed on 26.09.2008 and 25.07.2011 respectively and petitioner/J.dr did not seek call for the alleged receipts in the above EPs at any point of time. But he sought call for records in the present proceedings. The receipts called for by petitioner/D.Hr were already considered by original Court and passed a decree. Against such decree and judgment, petitioner/J.Dr did not prefer any appeal. Once he did not prefer any appeal, this executing Court has no power to consider the material placed in suit proceedings. The Executing Court has no power to go beyond decree. The respondent/D.Hr herein fighting to get fruits of decree since 2003. Thus this Court is considered view that this petition is filed only delay and dodge the matter. There is no need or

necessity to call for original records in suit proceedings to consider in this proceedings. This petition is devoid of merits. Hence, dismissed.”

On perusal of the above order, this Court is of the opinion that the trial Court has not committed any error warranting interference of this Court.

Accordingly, the Civil Revision Petition is dismissed No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

28th July, 2017
rkk