

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2429 OF 2017

O R D E R

This civil revision petition was filed by the claim petitioners in E.P.No.4 of 2017 on the file of the learned XII Additional District and Sessions Judge at Vikarabad, Ranga Reddy District. They filed E.A.No.3 of 2017 in the said execution petition under Order 21 Rule 99 read with Rule 101 CPC and also E.A.No.4 of 2017 in E.A.No.3 of 2017 in E.P.No.4 of 2017 seeking stay of all further proceedings in the execution petition. By order dated 28.04.2017, the executing Court issued notice on the application filed in E.A.No.4 of 2017 in E.A.No.3 of 2017 in E.P.No.4 of 2017. Surprisingly, in the main E.P. a docket order was passed on the said day directing re-issuance of the delivery warrant. Aggrieved by this latter order, this civil revision petition was filed.

By order dated 30.04.2017, this Court took note of the fact that the claim petition itself would stand defeated if the E.P. schedule property was delivered to the respondents at that stage. This Court accordingly granted stay of all further proceedings in the E.P.

Heard Sri Damodar Mundra, learned counsel for the petitioners, and Sri Mohd. Shujauddin, learned counsel for the respondents.

Sri Mohd. Shujauddin, learned counsel, would fairly state that as notice had been ordered in the claim petition and the stay petition filed therein, his clients would enter appearance before the executing Court and contest the same. Learned counsel would further state that pending disposal of the stay petition in the claim petition, his clients would not seek delivery of the E.P. schedule property.

Apart from this fair submission made by Sri Mohd. Shujauddin, learned counsel, this Court finds that the executing Court ought not to have directed re-issuance of the delivery warrant while ordering notice in the stay petition in the claim petition filed by the petitioners as the same would result in rendering the claim petition itself infructuous. That part of the order is accordingly set aside. The executing Court shall proceed with the hearing of the claim petition and dispose of the same in accordance with law expeditiously.

The civil revision petition is disposed of accordingly. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

9th JUNE, 2017

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SANJAY KUMAR, J

