

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYUJULU

C.R.P. No. 1045 of 2012

ORDER:

Heard the learned counsel appearing for the petitioner and for the respondents.

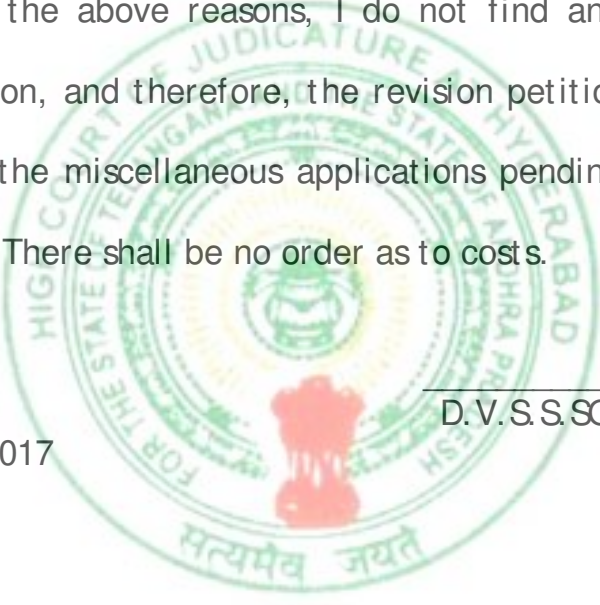
2. This revision is filed to set aside the Order dated 30.11.2011 in E.P.No.138 of 2007 in O.S.No.329 of 2008 on the file of the II Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, Hyderabad. The said E.P., was filed pursuant to a decree in the suit, wherein the petitioner herein is declared as owner of the suit schedule property. The Decree-Holder was seeking an order to commit the Judgment Debtors Nos. 1 to 4 to civil prison for the alleged violation of the decree of injunction.

3. As can be seen from the impugned order, the learned Senior Civil Judge has noticed that PW-1, who is the revision petitioner herein, has deposed that the judgment debtors have tried to dispossess her in the 1st week of January, 2007, and that later they have never interfered with her possession. This admission is made during the course of her cross-examination on 28.06.2010, as could be seen in Paragraph-8 of the order of the lower Court. There is also confusion about the appropriate prayer that is sought for. In the sworn affidavit as well as the chief examination deposition of PW-1, the prayer is to protect the possession of the decree holder, while in the E.P., the petitioner seeks to commit the judgment debtors to civil prison.

4. Irrespective of the fact, whether a wrong prayer is made or wrong provision is made or quoted, the fact remains that the lower Court noted that there is no threat of dispossession of the Decree Holder, and the admission of PW-1 on 28.06.2010 during her cross-examination cannot be ignored. There does not appears to any cogent evidence to commit Judgment Debtors 1 to 4 to civil prison for 'violation' of a decree of injunction. Before such an order is passed sending the Judgment Debtors to prison; there must be cogent and clear evidence, which is lacking in this case.

5. For all the above reasons, I do not find any merit in the present revision, and therefore, the revision petition is dismissed. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

October 16, 2017
Kv

D.V.S.S.SOMAYAJULU, J.

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