

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

C.R.P. No.3226 of 2017

ORDER:

This Civil Revision Petition is filed by JDRs.1 to 4 challenging the proceedings in E.P.No.252 of 2016 in DRK No.158 of 2015 on the file of Additional Senior Civil Judge, Kadapa.

2) The primordial ground of the challenge is that Respondent/DHR while filing execution petition, has not adhered to the procedure contemplated under Rule 55 of Andhra Pradesh Chit Fund Rules, 2008 (for short “the Rules”).

3) On hearing both sides, this Court finds force in the submission of the petitioners.

4) Rule 55 speaks of the procedure for execution of the awards passed under Sections 68 and 69 of the Chit Funds Act, 1982 (for short “the Act”) by the Registrar or his nominee. For convenient reference, Rule 55 is extracted thus:

“Rule-55. Procedure for execution of Awards: —

(1) Every order or award passed by the Registrar, or his nominee under Section 68 or 69 shall be forwarded by the Registrar to the foreman or to the party concerned with instructions that the foreman or, as the case may be, the party concerned should initiate execution proceedings forthwith according to the provisions of Section 71.

(2) If the amount due under the award is not forthwith recovered, or the order thereunder is not carried out, it shall be forwarded to the Registrar with an application for execution along with all information required by the Registrar, for the issue of certificate under Section 71. The applicant shall state whether he desires to get it execute the award through a civil court or through the revenue authorities as provided under Section 71.

(3) On receipt of such application for execution, the Registrar shall forward the same to the proper authority for execution along with a certificate issued by him under Section 71 and a proclamation issued under Rule 54 in the manner prescribed therein.

(4) Every order passed in appeal under Section 70 shall also be executed in the manner laid down in sub-rules (2) and (3)."

Rule 55 contemplates that if the amount under award is not recovered or the order thereunder is not carried out, the foreman shall forward to the Registrar the execution application along with the order and other information required by the Registrar for issuance of Certificate under Section 71 of the Act. The applicant shall state whether he desires to get the award executed through the civil court or through the revenue authorities as provided under Section 71. Thereupon, the Registrar shall forward the execution application to the proper authority i.e. either the civil court or the revenue authorities as desired by the foreman for execution along with certificate issued by him under Section 71 and proclamation issued under Rule 54 in the manner prescribed therein. Thereupon, the proper authority i.e. civil court or the revenue authority shall execute the award. Thus, it is clear

that the EP Court cannot assume jurisdiction directly to entertain the execution petition for executing the award of the Deputy Registrar of Chits, Kadapa, presented by the decree-holder. This aspect was clarified by a Division Bench of this Court in C.R.P.Nos.5236, 5741 and 5753 of 2016 dated 14.03.2017.

5) In the instant case, the foreman, it appears, filed the execution petition directly before the Additional Senior Civil Judge's Court and the said Court assumed jurisdiction bypassing the procedure contemplated under Rule 55. Hence, the EP is not legally sustainable.

6) Therefore, the C.R.P. is allowed holding that E.P.No.252 of 2016 is not maintainable under law. The respondent/decreed-holder is directed to move an appropriate application before the Registrar concerned for forwarding his execution petition to the proper authority. No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 03.10.2017
Murthy