

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

CIVIL REVISION PETITION No.2077 of 2017

ORDER: (per Justice Sanjay Kumar)

This civil revision petition under Article 227 of the Constitution arises out of the docket order dated 01.03.2017 passed by the learned II Additional District Judge, Ranga Reddy District at L.B.Nagar, in E.P.No.8 of 2014. By the said order, the Executing Court permitted the sale of the E.P. schedule property on 20.04.2017. The petitioner is the first judgment debtor in the said E.P.

By order dated 18.04.2017, this Court granted interim stay of all further proceedings pursuant to the impugned sale notice pending further orders. Earlier, when a sale proclamation was issued in the very same execution petition, the petitioner filed his objections and the order passed by the trial Court rejecting the said objections was challenged in C.M.A.No.636 of 2015. The said order was set aside by this Court on multiple grounds, including violation of Order 21 Rule 66(2) CPC, as per which the value of the property as furnished by the judgment debtor had to be disclosed. Taking note of these aspects and the fact that the same mistake had been committed by the Executing Court once again in relation to the docket order dated 01.03.2017 and the proclamation of sale issued pursuant thereto, the stay was granted.

It appears that even by the time the stay was granted by this Court, the auction sale was knocked down in favour of one N.Krishna Rao. The auction purchaser filed C.R.P.M.P.No.5531 of 2017 in this revision seeking to come on record. His grievance was that pursuant to the sale being knocked down in his favour, he deposited a sum of Rs.34,00,000/-

before the Executing Court towards the sale consideration. By interim order dated 05.09.2017 passed in this revision, this Court permitted the said auction purchaser to withdraw the amount deposited by him, which was lying to the credit of the execution petition. By virtue of this direction, this Court opined that no further orders needed to be passed in the implead petition filed by him.

Despite service of notice, the first respondent/decreed holder did not choose to enter appearance before this Court.

In the light of the aforestated facts, it is clear that the docket order dated 01.03.2017 which resulted in the sale proclamation of the same date suffered from various infirmities identical to those in the earlier sale proclamation which was the subject matter of C.M.A.No.636 of 2015 before this Court. The Executing Court ought to have been more mindful of the order passed by this Court in the said C.M.A. while dealing with the matter once again. However, as the Executing Court did not do so and committed the very same mistakes, the impugned docket order dated 01.03.2017 and the consequential sale proclamation of the same date cannot be sustained.

The civil revision petition is accordingly allowed setting aside the docket order dated 01.03.2017 passed by the learned II Additional District Judge, Ranga Reddy District at L.B.Nagar, in E.P.No.8 of 2014 and the consequential proclamation of the sale of immovable property in Form No.70 dated 01.03.2017.

Sri Kiran Palakurthi, learned counsel for the petitioner, would submit that pursuant to the interim order passed by this Court in the present revision, his client deposited a sum of Rs.8,00,000/- before the Executing Court to the credit of the E.P. This amount shall abide by the

further orders to be passed in the said E.P. We make it clear that in the event the auction purchaser, N.Krishna Rao, has not withdrawn the amount deposited by him to the credit of the E.P., the Executing Court shall permit him to do so notwithstanding the disposal of this case.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

Date: 12.12.2017
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