

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.5280 of 2017

ORDER:

Heard Sri T.S.Anand, learned counsel for the petitioner, and Sri K.Sita Ram, learned counsel for the respondent, apart from perusing the material available before the Court.

This revision, filed by the judgment-debtor in E.P.No.61 of 2014 in O.S.No.14 of 2004 on the file of the Senior Civil Judge, Adoni, challenges the order, dated 21.08.2017.

By virtue of the said order, the learned Senior Civil Judge, Adoni allowed the E.P., directing the sale of an extent of Ac.0.02.47 cents out of the E.P.schedule property for realization of the decretal amount. O.S.No.14 of 2004 was decreed on 28.12.2011. Pending the said suit, attachment of the schedule property was ordered and the suit was decreed. Respondent herein filed the present E.P.No.61 of 2014 for realization of the amount by way of sale of the E.P. schedule property of Ac.0.40 cents situated in Sy.No.287/B of Yemmiganur, Kurnool District. In the E.P. the value of the attached property is shown as Rs.50,000/- by the decree-holder whereas the value shown by the Court Ameen is Rs.90,000/-. Petitioner herein filed a counter, so also an additional counter, resisting the E.P. Along with the counters he also enclosed the valuation certificate issued by the Sub-Registrar, Yemmiganur, which shows the total value of the

property as Rs.38,40,000/- i.e. @ Rs.2000/- per square yard. After filing the counter and the additional counter, the decree-holder filed a memo on 20.04.2016, expressing 'no objection' for the sale of an extent of only Ac.0.02.47 cents out of the E.P. schedule property for realization of the amount. The judgment-debtor also filed a reply memo, stating that the market value, mentioned in the basic valuation register, would not reflect the true value and the present market value of Ac.0.02.47 cents would not be less than Rs.25,00,000/- and requested for rejection of the memo filed by the decree-holder.

The learned Senior Civil Judge, by way of the order impugned, rejected the objections of the judgment-debtor and ordered sale of Ac.0.02.47 cents of the E.P.schedule property for realization of the amount. This revision challenges the validity and legal sustainability of the said order.

According to the learned counsel for the petitioner-judgment-debtor the order impugned is highly erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order XXI Rules 64 and 66 CPC. In elaboration, it is submitted further by the learned counsel that, as per the provisions of Order XXI Rule 66 CPC, only a part of the property, which would be sufficient to satisfy the decree, can alone be sold in execution but not more than that.

On the contrary, it is submitted by the learned counsel for the respondent-decree-holder that there is no illegality nor there exists any procedural infirmity in the impugned action and, in fact, only after taking into consideration the above provisions of law, the learned Judge ordered sale of part of the E.P. schedule property and the same is not amenable for any correction by this Court, having regard to the reasons assigned by the learned Senior Civil Judge.

There is absolutely no dispute as regards the fact that the Sub-Registrar, Yemmiganur issued a certificate, showing the value of the property as Rs.38,40,000/- i.e. @ Rs.2000/- per square yard. In fact, along with the counter, the petitioner herein enclosed the said certificate to substantiate his case. It is also required to be noted that, after filing of the counter by the judgment-debtor, the decree-holder filed a memo, expressing his no objection for the sale of only an extent of approximately Ac.0.02½ cents out of the E.P. schedule property. It is also significant to note that, though the petitioner herein filed A.S.No.22 of 2012 against the decree, no stay was granted in the said appeal.

A perusal of the order under challenge clearly discloses that the learned Senior Civil Judge, obviously taking into consideration these aspects, including the memo filed by the decree-holder, expressing no objection for sale of the reduced extent of land, passed the order under challenge. Therefore, this Court does not find any valid reason to meddle with the

said well-articulated order passed by the learned Senior Civil Judge.

For the aforesaid reasons, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall also stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

05th December, 2017
Tsy

