

HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CIVIL REVISION PETITION NO.2160 OF 2011

ORDER:

This Civil Revision Petition is arising out of the order, dated 08.02.2010, passed in E.A.No.519 of 2009 in E.P.No.11 of 2009 in O.S.No.141 of 2009 by the Senior Civil Judge, Peddapuram (for short, executing Court).

2. Heard the arguments of learned counsel for the petitioner and learned counsel for the respondent.

3. The brief facts of the case are that originally the respondent in this revision has filed a suit O.S.No.141 of 2009 for recovery of money basing on a mortgage deed. During the pendency of the suit, the suit was referred to Lok Adalat for settlement and the Lok Adalat has passed an award on 08.08.2008. Subsequent to the passing of the award, the respondent herein filed E.P.No.11 of 2009 for sale of the property, wherein E.A.No.488 of 2009 has been filed for setting aside the sale under Order XXI Rule 89 of CPC. Thereafter, the sale was conducted and sale amount has been deposited in the executing Court. The executing Court has set aside the sale on 20.11.2009. The executing Court has allowed E.A.No.519 of 2009 for issue of a cheque for Rs.3,45,464/-.

4. In fact, the petitioner, who is the judgment debtor, has filed this Civil Revision Petition firstly disputing the amount of Rs.7,991/- claimed as advocate fee. During the course of arguments, the learned counsel for the petitioner submits that the entire matter has been settled and Full Satisfaction memo has been filed and Full Satisfaction has been recorded for an amount of Rs.3,17,990/-. Now there is no further claim in this

revision by the petitioner. Learned counsel for the petitioner requested this Court to issue a direction to the executing Court for return of the mortgage deed executed by the petitioner while obtaining the loan which was deposited in the executing Court.

5. Learned counsel for the respondent submitted that no cause is surviving in this Civil Revision Petition.

6. On consideration of the facts and circumstances of this case, since no cause is surviving in this Civil Revision Petition, I do not see any reasons to pass any order in this matter, except giving liberty to the petitioner to approach the executing Court, in the event if he is entitled to take back the mortgage deed from the executing Court. The executing Court, on filing such an application, shall decide the same in accordance with law.

7. With the above direction, this Civil Revision Petition is closed. Miscellaneous petitions, pending if any, shall stand dismissed. No order as to costs.

GUDI SEVA SHYAM PRASAD, J

Date: 15.06.2017
TJMR