

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.5212 OF 2011

ORDER:

This Civil Revision Petition, under Section 115 of Code of Civil Procedure, 1908 (for short, 'C.P.C'), is filed challenging the order, dated 28.06.2010, in E.P.No.77 of 2008 in L.A.O.P.No.45 of 1991, passed by the Senior Civil Judge, Narsapur.

Dealing with similar case in CRP.No.5209 of 2017, this Court passed an order, which is to the following effect:

"6. Though the Executing Court concluded that the calculation arrived at by the decree-holders at Rs.2,91,955.03 ps., is correct, no reason was assigned. In fact, the only dispute is with regard to calculation of additional market value, calculation of rate of interest on compensation amount at 9% per annum and 15% per annum on the enhanced land value. Those variations though pointed out before the Executing Court in the calculation memos filed by both the decree-holders and the judgment debtor, the Executing Court did not advert to the variations in the calculation memos, but accepted the calculation arrived at by the decree-holders at Rs.2,91,955.03 ps without assigning any reason. When both parties are disputing a particular aspect i.e., with regard to calculation, it is for the Executing Court to assign reason for accepting the calculation arrived at by the decree-holders adverting to the variations in both the calculation memos. But the Executing Court did not do so and simply accepted the calculation memo filed by the decree-holders without recording any reason.

7. Therefore, the order passed by the Executing Court is cryptic and bereft of any reason, in the absence any reason, the order passed by the Executing Court is not sustainable. Hence, the finding recorded by the Executing Court in accepting the calculation memo arrived at by the decree-holders is liable to be set aside.

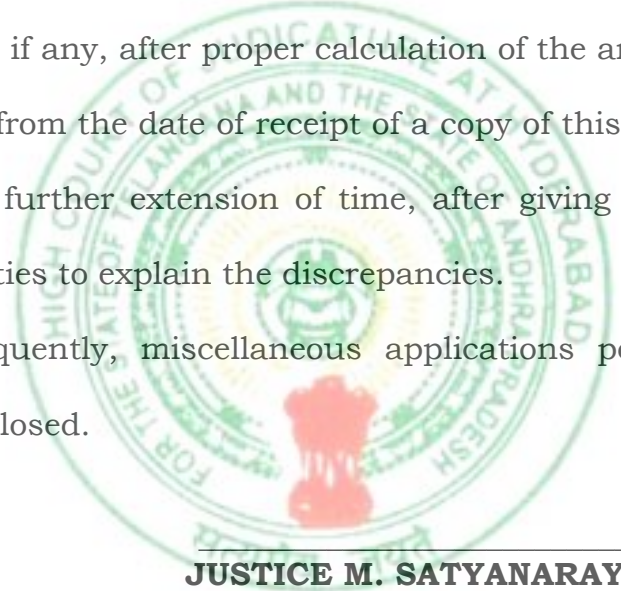
8. Accordingly, the Civil Revision Petition is allowed and the matter is remanded to the Executing Court to decide the variations in the amount adverting to each head i.e., compensation, interest etc., shown in the calculation memos filed by both parties and decide the exact amount due to the decree-holders by the petitioner and on such arrival, the Court may order attachment of the property of the petitioner/judgment debtor for recovery of amount due, if any, after proper calculation of the amounts, within two months from the date of receipt of a copy of this order,

without seeking any further extension of time, after giving opportunity to both the parties to explain the discrepancies.”

Hence, let there be a similar order even in this case also.

In the result, the Civil Revision Petition is allowed and the matter is remanded to the Executing Court to decide the variations in the amount adverting to each head i.e., compensation, interest etc., shown in the calculation memos filed by both parties and decide the exact amount due to the decree-holders by the petitioner and on such arrival, the Court may order attachment of the property of the petitioner/judgment debtor for recovery of amount due, if any, after proper calculation of the amounts, within two months from the date of receipt of a copy of this order, without seeking any further extension of time, after giving opportunity to both the parties to explain the discrepancies.

Consequently, miscellaneous applications pending if any, shall stand closed.



JUSTICE M. SATYANARAYANA MURTHY

Date:07.06.2017

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