

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.4381 of 2017

ORDER :

This Revision is filed challenging the order dt.04.08.2017 in E.P.No.12 of 2009 in O.S.No.18 of 1991 on the file of Senior Civil Judge, Narsapuram.

2. The petitioners herein are Judgment-Debtors in the above suit which was filed by the deceased-1st respondent for specific performance of an Agreement of Sale against the 1st petitioner.

3. The said suit came to be decreed on 18.09.1997 and the Judgment therein was confirmed on 16.07.2004 in Appeal Suit No.150 of 1997.

4. Thereafter, E.P.No.20 of 2006 was filed by the Decree-Holder for obtaining a registered Sale Deed, and the said E.P. was decreed on 04.03.2009.

5. Then, E.P.No.12 of 2009 was filed by the legal representatives of the Decree-Holder for possession of the property covered by the said sale deed dt.04.03.2009 executed in favour of the Decree-Holder.

6. The 3rd Judgment-Debtor / Petitioner filed a counter stating that on the death of the 1st Judgment-Debtor only some of his legal representatives were impleaded in the execution petition, i.e., E.A.No.20 of 2006 on 07.12.2009 and three other daughters of the 1st

petitioner / 1st Judgment-Debtor were not impleaded in E.P.No.12 of 2009, and therefore, the present execution petition is not maintainable.

7. The said objection was over-ruled by the Court below on the ground that there is no necessity to add all the legal representatives of the deceased-party, and that it is sufficient if the estate is represented by some of the legal representatives. It was also contended before the Court below that copy of the affidavit filed by the Decree-Holder in E.P.No.12 of 2009 was not furnished to them. This objection was also rejected on the ground that petitioner nos.2 to 5 were recognized as legal representatives of the deceased-1st Judgment-Debtor as long back as 07.12.2007, and the 3rd petitioner should have raised this objection at that time, and in any event, no prejudice is caused. A further contention raised by the 3rd petitioner was that the Decree-Holders did not file the registered sale deed obtained by them in EP.No.20 of 2006, but the Court below held that since there is no dispute that the property covered by the sale deed and the E.P. Schedule property is one and the same, even if the sale deed is not filed, the E.P. cannot be rejected.

8. Challenging the same, the present Civil Revision Petition is filed.

9. Though counsel for petitioners sought to contend that certain gift deeds had been executed by the 1st petitioner in favour of Bayye Adilakshmi and Koyye Mani on 28.08.2006, this objection is not

raised in the Court below. Without raising such objection in the Court below, it is not open to petitioners to canvass this point for the first time in this Revision before this Court.

10. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

11. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No costs.

12. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-08-2017

Ndr/*

