

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

CRP Nos.3565 & 3570 of 2017

Date: 11-08-2017.

CRP No.3565 of 2017

BETWEEN:

K. Vinolia Sweety and another.

...Petitioners.

AND

Sri R. Subramanyam and another.

...Respondents.

CRP No.3570 of 2017

BETWEEN:

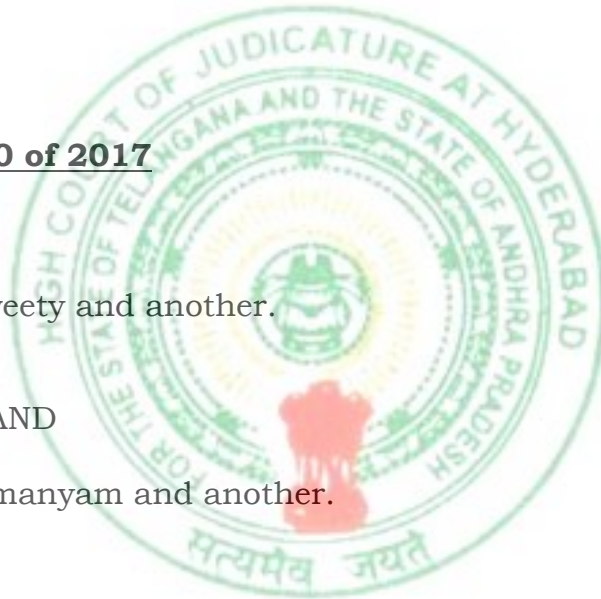
K. Vinolia Sweety and another.

...Petitioners.

AND

Sri R. Subramanyam and another.

...Respondents.



THE HON'BLE SRI JUSTICE A.V. SESA SAI**CRP Nos.3565 & 3570 of 2017****COMMON ORDER:**

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. Since these two revisions are inter related and arise out of one execution proceedings, this Court deems it appropriate to dispose of these two revision petitions by way of this common order.

3. Petitioners herein are third parties to O.S.No.139 of 2013. First respondent instituted O.S.No.139 of 2013 for specific performance of contract of sale against the second respondent. On 28-11-2014, the said suit was decreed. Seeking enforcement of the said decree, first respondent herein filed E.P.No.14 of 2015 on 19-03-2015. In the said E.P.No.14 of 2015, the petitioners herein, who are third parties, filed an application in E.A.No.10 of 2017 under the provisions of Section 47 of the Code of Civil Procedure, claiming interest in 'D' schedule property. On 13-04-2017, E.A.No.10 of 2017 was dismissed for default. Thereafter, the petitioners herein filed E.A.No.19 of 2017 under the provisions of Order 21 Rules 105 & 106 of the Code of Civil Procedure praying for restoration of E.A.No.10 of 2017, which was dismissed for default on 13-04-2017. Thereafter, the said E.A.No.19 of 2017 was allowed on 28-04-2017, subject to examining all the witnesses on behalf of the petitioners on 07-06-2017. Subsequently on 07-06-2017, the Court below passed an order dismissing the said applications on the ground that the claim petitioners were not

present and did not comply with the conditional order dated 28-04-2017.

4. CRP No.3570 of 2017 assails the order dated 28-04-2017 in E.A.No.10 of 2017 and CRP No.3565 of 2017 challenges the order dated 07-06-2017 passed in E.A.No.19 of 2017.

5. According to the learned counsel for the petitioners, the orders impugned in these revisions are erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order 21 of the Code of Civil Procedure. It is the further submission of the learned counsel for the petitioners that since valuable civil rights of the petitioners are involved, the learned Judge ought to have given opportunity to the petitioners herein, instead of dismissing the applications. The 'D' schedule property is the house property in an extent of 3500 Square Feet and it is a valuable property, which the petitioners herein are claiming.

6. It is the submission of the learned counsel for the respondents herein that in view of the latches on the part of the petitioners herein, no indulgence of this Court is needed. It is also brought to the notice of this Court that in respect of the self-same property i.e., 'D' schedule property, E.A.No.11 of 2017, filed by another person, is pending consideration before the Court below, wherein parties have adduced evidence also.

7. Though there are certain latches on the part of the petitioners herein in prosecuting the case, having regard to the fact that valuable rights of the parties are involved, this Court deem it

appropriate to permit the petitioners herein to prosecute the petition before the Court below subject to certain terms.

8. For the afore said reasons, the revisions are allowed, setting aside the orders dated 07-06-2017 passed in E.A.No.19 of 2017 in E.A.No.10 of 2017 in E.P.No.14 of 2015 in O.S.No.139 of 2013 and the order dated 28-04-2017 in E.A.No.10 of 2017 in E.P.No.14 of 2015 in O.S.No.139 of 2013 to the extent of directing examination of all the witnesses on one day. However, the petitioners herein shall examine and complete their evidence, within a period of one month from the date of receipt of this order. No costs.

9. Miscellaneous petitions pending consideration, if any, in these civil revision petitions, shall stand closed in consequence.

Date:11-08-2017
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JUTICE A.V.SESHA SAI

