

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No. 6558 OF 2016

ORDER:

This Civil Revision Petition is filed challenging the docket order dated 27.04.2016 in E.A. No.8 of 2016 in E.P. No.13 of 2015 in O.S. No.24 of 2015 on the file of II Additional District Judge, Kadapa at Proddatur wherein the learned judge in a ratable distribution application filed by respondents 2 and 3/third parties, stopped the issuance of cheque to the D.Hr.

2) The revision petitioner/D.Hr's case is that he filed O.S. No.24 of 2015 on the file of II Additional District Judge, for recovery of Rs.11,75,780/- against 1st respondent—J.Dr and obtained decree. He also filed I.A. No.834 of 2015 for withholding the amount of Rs.11,75,780/- from out of Rs.32,40,000/- which was lying in the Court deposit of Senior Civil Judge, Proddatur in E.P. No.148 of 2012 in O.S.No.179 of 2012 and the said petition was allowed on 30.06.2015. The said amount belongs to 1st respondent/J.Dr.

3) The further case of the revision petitioner is that he filed E.P. No.13 of 2015 for realisation of E.P amount of Rs.12,54,766/-. In the said E.P., E.A. No.2 of 2016 was filed to issue a cheque for Rs.11,75,780/- which was attached and brought from E.P. No.148 of 2012 in O.S. No.179 of 2012 on the file of Senior Civil Judge, Proddatur. The said E.A. was allowed by Execution Court on

30.03.2016 directing the office to credit the said amount to the petitioner's account.

4) Further, case of the revision petitioner is that in O.S. No.179 of 2012 the D.Hr obtained decree against 1st respondent/ J.Dr and brought his landed property to sale and the sale was conducted for Rs.32,40,000/-. Thereafter, the said D.Hr filed E.A. No.783 of 2015 for issuance of cheque for Rs.3,53,441/- for realisation of decreetal amount and it was allowed. Thus, after deducting the said amount of Rs.3,53,441/- and the present petitioner's amount of Rs.11,75,780/- from out of Rs.32,40,000/-, the balance amount left in O.S. No.179 of 2012 would be around Rs.17,10,000/- and odd.

5) His further case is that the respondents 2 and 3, who are third parties obtained decrees against 1st respondent/J.Dr, filed memos stating as if they obtained decrees against 1st respondent and also obtained orders for ratable distribution from the Court of Senior Civil Judge, Proddatur and therefore, the cheque may not be issued to petitioner/ D.Hr. Pursuant to their representations, the Execution Court passed impugned order dated 27.04.2016 stopping the issuance of cheque to the petitioner. Hence the C.R.P.

6) Heard Sri Nagaraju Naguru, learned counsel for the petitioner and Sri D.Krishna Murthy, learned counsel for respondents 2 and 3. The 1st respondent is noted as not necessary party.

7) The submission of learned counsel for the petitioner is that the total amount due to the respondents 2 and 3 as per their memos is about Rs.16,09,817/- and the balance amount lying before the Senior Civil Judge, Proddatur is Rs.17,10,000/- and odd and therefore, they can work out their remedies before the Senior Civil Judge's Court itself and they cannot stop payment of cheque to the petitioner/ D.Hr in the present case. He thus prayed to allow the C.R.P.

8) Learned counsel for respondents 2 and 3 after verification submitted that the amount lying in the Court of Senior Civil Judge, Proddatur would be sufficient to discharge the decretal amounts of respondents 2 and 3 and therefore they have no objection for allowing the C.R.P.

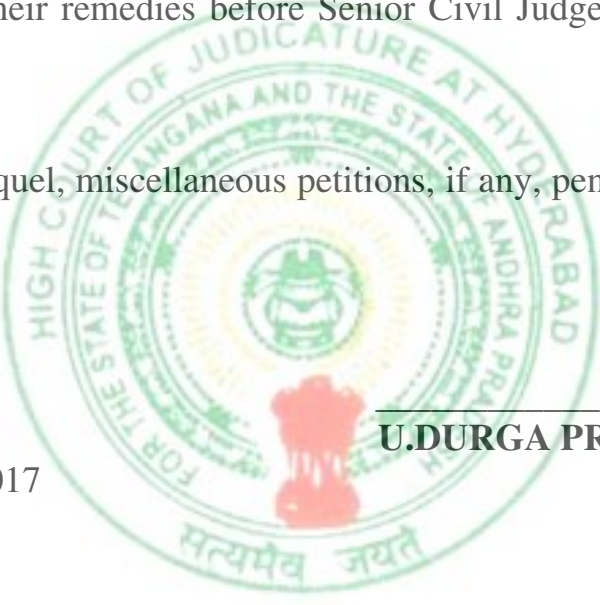
9) It is seen that the balance amount lying in Senior Civil Judge's Court after deducting Rs.3,53,441/- and Rs.11,75,780/- from Rs.32,40,000/- would be around Rs.17,10,000/- and odd. As per the memos filed by respondents 2 and 3 before the II Additional District Judge, Kadapa at Proddatur, the 2nd respondent shall get Rs.8,07,515/- vide E.A. No.522 of 2015 in E.P. No.148 of 2012 in O.S. No.179 of 2012 on the file of Senior Civil Judge, Proddatur and 3rd respondent shall get Rs.8,02,302/- vide E.A. No.464 of 2015 in E.P. No.148 of 2012 in O.S. No.179 of 2012 of the Same Court, thus both of them together shall get Rs.16,09,817/-. Since the balance amount lying in that Court is more than the said amount, as rightly submitted by learned counsel for revision petitioner, respondents 2 and 3 can work

out their remedies before the Same Court without the necessity of requesting the II Additional District Court, Kadapa at Proddatur to stop payment of the cheque to the present petitioner.

10) Since having found the reasonability in the submission of learned counsel for the petitioner and also as agreed by the learned counsel for respondents 2 and 3, this C.R.P. is allowed and the Court of II Additional District Judge, Kadapa at Proddatur is directed to issue cheque to the petitioner/ D.Hr, respondents 2 and 3 are directed to work out their remedies before Senior Civil Judge, Proddatur. No costs.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

Date:03-04-2017
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U.DURGA PRASAD RAO, J