

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 6077 OF 2017

ORDER:

The revision petitioner - judgment debtor challenges the order dated 01.08.2017 passed by the Senior Civil Judge's Court at Dharmavaram in E.P. No. 18 of 2016 in O.S. No. 94 of 2012 filed under Order XXI Rules 64 and 66 of the Code of Civil Procedure for sale of petition schedule property towards realization of the E.P. amount. The said E.P. was allowed.

The suit was filed based on the mortgage and the same came to be decreed on 30.01.2014. Though the petitioner had ample time to redeem the mortgage by paying the amount due under the mortgage decree, she had not availed the same. When the mortgaged property was sought to be auctioned, an objection was taken on the ground that the same was an assigned land and thus, is hit by the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. The trial Court, after elaborate consideration of the evidence placed before it, recorded that:

“ When Ex.P2 and Ex.R3 Adangals speak that the S.No. 532/2 is a private land and admittedly, the J.Dr. got schedule property in S.No. 531/1 under Ex.P1 registered sale deed, it can be safely said that the issuance of Ex.R1 possession certificate in the name and style of Nivesana Stalamu Appagintalu Patta, dated 02.05.2015 and issuance of Ex.R2 rough sketch showing that the schedule property is in S.No. 532/2 are not genuine one. So Ex. R1 and Ex.R2 cannot be taken into consideration and J.Dr. cannot take any benefit from it. As Ex.P1 registered sale deed proves that the J.Dr. purchased the schedule property and the same is situated in S.No. 531/1, she has got absolute right over it and has got salable interest. As J.Dr. executed mortgage deed mortgaging schedule property for the loan secured by her and even after passing of mortgage decree, she did not pay the mortgage decree amount and

not redeemed the mortgage property i.e. E.P. schedule property, the schedule property is liable for sale in auction for realization of E.P. amount. Therefore, it is held that the schedule property can be put for sale in auction for realization of mortgage decree amount. Therefore, this point is answered in favour of the D.Hr.”

In the light of the categorical finding recorded by the trial Court and there being no material before this Court to come to a contra conclusion, this Court is of the opinion that the Civil Revision Petition is devoid of merit and it is accordingly, dismissed. No costs.

Consequently, the miscellaneous Applications, if any shall also stand dismissed.

17th November 2017

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CHALLA KODANDA RAM, J

