

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP No.509 of 2018

ORDER::

This civil revision petition is filed aggrieved by the docket order dated 19-01-2018 passed in EA No.233 of 2017 in EP No.83 of 2009 in OS No.195 of 2006 by the Principal Senior Civil Judge, Kovvur.

2. Facts stated are:- Suit being OS No.195 of 2006 was filed by the plaintiff-respondent herein for recovery of monetary dues from the defendant-revision petitioner. After a decree was made in that suit and the decree became final, as no appeal was filed by the defendant, the plaintiff filed the above EP for sale of the EP schedule property. The property was sold in execution proceedings and it was purchased by the plaintiff, with the permission of the Court. The sale was confirmed and a sale certificate dated 04-09-2017 was also issued to the plaintiff. The present application EA No.233 of 2017 for delivery of possession was filed on 24-10-2017. The trial Court based on the report of the Court Amin to the effect that the property was delivered on 16-12-2017, closed the EA.

3. This order of the trial Court is sought to be assailed by learned counsel for the petitioner that no notice was issued to the petitioner and no opportunity given to contest the EA. On the other hand, learned counsel for the respondent submits that in fact there is no rule that notice is to be issued in an application

filed for delivery of possession pursuant to issue of sale certificate.

4. It is to be seen that admittedly, the judgment and decree in the suit was passed on 03-01-2009 and when no appeal was filed by the defendant-revision petitioner herein, EP was filed and auction in respect of the EP schedule property was held on 15-09-2011 and the plaintiff stood the highest bidder and a sale certificated was issued in his favour on 04-09-2017. The petitioner-defendant without questioning any of the orders passed earlier in proceedings right from the judgment and decree in the suit till the issuance of the sale certificate and having allowed the proceedings to become final, he cannot now seek to unsettle the settled things. No mandatory rule is pressed into service to show that issuance of notice in an application filed for delivery of possession pursuant to the issue of sale certificate. The instant application is filed within limitation.

5. In the circumstances, there is no illegality or irregularity in the impugned order warranting interference by this Court. The civil revision petition fails and it is accordingly dismissed. Miscellaneous petitions, if any pending shall stand closed. No order as to costs.

A. RAJASHEKER REDDY, J

Dated: 12-03-2018
NRG

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