

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**C.R.P.No.2636 of 2017**

**ORDER:**

This revision petition is filed under Section 115 CPC assailing the orders dated 27.03.2017 passed in E.P.No.72 of 2015 in O.S.No.36 of 2005 on the file of Senior Civil Judge Court, Hindupur.

2. Heard the learned counsel appearing for both the parties and perused the material on record.

3. The point that arises for consideration is:

“Whether there is any illegality, irregularity and impropriety in the impugned order?”

4. A perusal of the record reveals that the first respondent filed O.S.No.36 of 2005 on the file of Senior Civil Judge Court, Hindupur, against the first petitioner and respondents 2 to 10 for recovery of the suit amount with future interest. The trial Court after full fledged trial, decreed the suit in favour of the first respondent. In order to realise the decretal amount, the first respondent filed E.P.No.72 of 2015 in O.S.No.36 of 2005. During pendency of E.P., the second petitioner and respondent No.11 have filed E.A.No.17 of 2008 in E.P.No.25 of 2005 in O.S.No.36 of 2005 under Order 21 Rule 58 CPC. The executing Court allowed the petition with an observation that the petitioners are entitled to equal shares in the petition schedule property. Feeling aggrieved by the orders dated 09.12.2011

passed in E.A.No.17 of 2008 in E.P.No.25 of 2005 in O.S.No.36 of 2005, the first respondent preferred A.S.No.942 of 2012 on the file of this Court. A division Bench of this Court in A.S.M.P.No.2808 of 2012 in A.S.No.942 of 2012 passed the following order:

“For the aforesaid reasons, it is directed that in respect of remaining 50% of the E.P.schedule property, attachment shall continue and liberty is given to the petitioner to file a fresh E.P. for sale of said attached property towards realization of the decretal amount.”

5. As per the orders of the Division Bench, the first respondent is entitled to sell 50% of the E.P. schedule property.

6. While pending E.P., the petitioner raised an objection that the first respondent cannot proceed against the fourth respondent alone leaving the other Judgment-debtors. A perusal of the record reveals that R4 is one of the Judgment-debtors in the E.P. First petitioner is the wife, second petitioner is the son and 11<sup>th</sup> respondent is the daughter of 4<sup>th</sup> respondent.

7. There is no legal impediment to proceed against one of the Judgment-debtors by the Decree-holder to realise the E.P. amount. The executing Court considered the factual and legal aspects in right perspective and overruled the objections raised by the petitioners.

7. As rightly pointed out by the learned counsel for the first respondent, petitioner No.1 is not a party to E.A.No.17 of 2008. The executing Court has assigned reasons much less cogent and

valid reasons to its findings. I am fully endorsing with the findings recorded by the executing Court. The submission made by the learned counsel for the petitioners that the first respondent has to proceed against the other Judgment-debtors is not sustainable either on facts or in law. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court, while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the petition is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. However, the executing Court is hereby directed to follow the procedure as contemplated under Order XXI CPC while conducting sale of the property. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

**Dt:10.12.2018**  
Rns

**T.SUNIL CHOWDARY, J**