

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P. No.821 OF 2018

ORDER : (Oral)

Vide the present petition, the petitioner has challenged the order dated 03.01.2018 passed in E.P.No.96 of 2017 in O.S. No.631 of 2008 on the file of the Principal Junior Civil Judge, Tenali, Guntur District.

2. Learned counsel appearing on behalf of the petitioner submits that the suit property was purchased by one Peekka Kalyani, who is mother of the petitioner and decree holder, and she died intestate. As such the petitioner/Judgment Debtor (J.Dr) is co-sharer and co-owner of the E.P schedule property and the decree holder is not entitled to get delivery of the E.P schedule property.

3. The decree in O.S.No.631 of 2008 was passed on 04.02.2017 in favour of the respondent by giving four months time to the petitioner/J.Dr to deliver the vacant possession of the said property.

4. It is not in dispute that till the date of passing of the impugned order dated 03.01.2018 the petitioner has not challenged the decree dated 04.02.2017. The aforesaid contention was taken in the counter filed in E.P.No.96 of 2017. The learned Tribunal rejected the contention by recording that the schedule property has already been

decreed and the issue raised in E.P. has been decided in the suit mentioned above.

5. As admitted by the learned counsel for the petitioner that till the order passed in E.P. the petitioner has not challenged the decree dated 04.02.2017 however after passing the impugned order the petitioner has preferred appeal before this Court against the decree with delay of 305 days which has to be adjudicated.

6. Admittedly, neither the decree was challenged within the limitation period nor possession delivered within four months time as granted by the lower Court in O.S.No.631 of 2008.

7. In view of the above, I find no illegality or perversity in the order 03.01.2018 passed in E.P.No.96 of 2017 in O.S. No.631 of 2008 by the lower Court.

8. Finding no merit in the instant petition and the same is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any pending, shall stand closed.

SURESH KUMAR KAIT, J.

Date : 06-03-2018
Gvl

