HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.2224 OF 2018

ORDER:

Judgment Debtor is the revision petitioner in the present revision. Aggrieved over the docket order, dated 26.02.2018, in E.P. No.7 of 2006 in O.S. No.362 of 2003, passed by the XIII Additional Senior Civil Judge (Fast Track Court), City Civil Court, Secunderabad, he filed the present revision under Section 115 of the Code of Civil Procedure, 1908, on the main ground that balance sale consideration was not paid to him and the Executing Court travelled beyond the decree.

2. In fact, the present revision is coming up for admission. The learned counsel for the revision petitioner sought stay of all further proceedings in E.P. pursuant to the orders passed on 26.02.2018. But, a perusal o the order would show that it is very cryptic and not a speaking order and even reasons were not assigned.

3. The docket order runs thus:

> "JDr side advocates present today. As per DHrs, registered Sale Deed was executed by this court on 18-08-2007 itself. Delivery is only ancillary relief. EA.No.01 OF 2018 is dismissed without costs. DHrs may proceed with EA for delivery. This is old EP and hence closed without prejudice to rights of both sides to seek reopen if required. (EA.No. 2 of 2018 delivery is posted to 04-04-2018."

4. E.A. No.1 of 2018 appears to have been filed by the decree holders for possession. Executing Court observing that the delivery is only an ancillary relief, whereas registered sale deed was executed in favour of the decree holders on 18.08.2007 by the Court, there is no need to further probe into, and thereby dismissed it without costs. However, the executing Court also kept it open by recording that E.P. stands closed without prejudice to the rights of both sides to seek reopening if required, and for delivery, E.A. No.2 of 2018 stood posted to 04.04.2018.

5. Appropriate order that would have to be passed is to terminate the E.P., but not closure of E.P. which ought to be done after delivery is effected by dismissing E.A. No.1 of 2018 by meeting the submissions made by the learned counsel for the petitioner therein. The order *ex facie* shows that it is not a speaking order. It is needless to mention that the matter requires to be remitted to the executing Court directing to afford an opportunity of being heard to the petitioner in E.A. No.1 of 2018 and record reasons for arriving at just conclusion. Accordingly, the docket order, dated 26.02.2018, passed by the executing Court in E.P. No.07 of 2006 in O.S. No.362 of 2003 is hereby set aside, remitting E.A. No.1 of 2018 to the execution Court, with a direction it to dispose of the said E.A. on merits by 08.06.2018.

6. Accordingly, the present Civil Revision Petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the revision, stand closed.

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A. SHANKAR NARAYANA, J

April 13, 2018.
Mgr