

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P. Nos.3277, 3297 and 3314 of 2018

COMMON ORDER : (Oral)

C.R.P.No.3277 of 2018 is filed challenging the order dated 1st of May 2015 passed in E.A.No.69 of 2014 in E.P.No.11 of 2011 in O.S.No.196 of 1999. C.R.P.No.3297 of 2018 is filed challenging the order dated 1st of May 2015 passed in E.A.No.113 of 2013 in E.P.No.11 of 2011 in O.S.No.196 of 1999. C.R.P.No.3314 of 2018 is filed challenging the order dated 3rd of June 2015 passed in E.A.No.159 of 2015 in E.A.No.118 of 2015 in E.P.No.11 of 2011 in O.S.No.196 of 1999.

2. By the aforesaid orders, the petitions filed by the respondents herein to stay all further proceedings in E.P.No.11 of 2011 in O.S.No.196 of 1999, have been allowed by the III Additional District Judge, Guntur.

3. The respondents in C.R.P.No.3277 of 2018 have filed the petition vide E.A.No.69 of 2014 under Section 47 read with Section 151 CPC, stating that they are residents of USA and have not authorized any person to represent them to file E.P.No.11 of 2011. Therefore, they sought for stay of all further proceedings in the said E.P. The said E.A.No.69 of 2014 was allowed by an order dated 01.06.2015. Post-passing of the said order, petitioners in

C.R.P.No.3277 of 2018 have filed E.A.No.182 of 2015 questioning the right, title and interest of the respondents in filing the very E.A.No.69 of 2014 as a preliminary point. But, the learned trial Court dismissed E.A.No.182 of 2015. By virtue of the same, the entire execution proceedings are stayed though the stake of the respondents in CRP.No.3277 of 2018 is only undivided Ac.2.00 cents out of the suit schedule property.

4. The respondents in C.R.P.No.3297 of 2018 have filed an application vide E.A.No.113 of 2013 under Section 47 read with Section 151 C.P.C., seeking stay of all further proceedings in E.P.No.11 of 2011 pending disposal of their other interlocutory applications vide E.A.Nos.110, 111 and 112 of 2013. The contention of respondents is that they are the legal representatives of one Sri Illuri Surya Reddy, whose share is to an extent of Ac.1.50 cents in the suit schedule property and that he died on 10.09.1996. Said E.A.No.113 of 2013 was allowed by an order dated 01.05.2015 despite taking several pleas, including the one that, to the extent of his share in the total property, the suit gets abated. By virtue of allowing E.A.No.113 of 2013, the entire execution proceedings are stayed though the stake of the respondents in CRP.No.3297 of 2018 is only Ac.1.50 cents.

5. Respondents in C.R.P.No.3314 of 2018 have filed an application vide E.A.No.159 of 2014 under Order 21 Rule 59 read with Section 151 CPC, making a claim for Ac.0.83 cents of land having purchased the same under a registered sale deed from out of the total extent of Ac.45.03 cents. The claim of respondents herein is factually incorrect, inasmuch as the sale deed is dated 08.01.1990, whereas, the plaintiffs have purchased the total extent of Ac.45.03 cents under sale deed, dated 22.12.1985. The learned trial Judge allowed E.A.No.159 of 2014 by erroneously placing reliance on the judgment reported in **A.Jitendranath v Jubilee Hills Co.Op House Building Society**¹.

6. When the matter came up for hearing on 17.09.2018, learned Senior Counsel appearing on behalf of petitioners, on instructions, submitted that the petitioners have no objection if the claims of respondents herein are allowed to the extent of Ac.2.00 cents in CRP.No.3277 of 2018, Ac.1.50 cents in CRP.No.3297 of 2018 and Ac.0.83 cents in CRP.No.3314 of 2018, so that in respect of rest of the properties, the fruits of decree can be enjoyed by the petitioners herein.

7. Learned counsel appearing on behalf of respondents does not dispute the submissions made by the learned Senior Counsel for petitioners and agreed that they are concerned about the lands to the

¹ 2006 (6) SCJ 338

extent of Ac.2.00 cents, Ac.1.50 cents and Ac.0.83 cents only as mentioned above, and they have nothing to do with regard to the land claimed by the other parties.

8. In view of the submission made by the learned Senior Counsel on behalf of petitioners and the submission of the learned counsel for respondents as mentioned above, I hereby set aside the orders impugned in these revision petitions. Consequently, the claim petitions filed by the respondents herein before the trial Court, stands allowed. The executing Court is at liberty to proceed with the matter as per law.

9. Revision petitions are accordingly allowed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

5th October, 2018

ajr