

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.4379 OF 2017

ORDER:

This revision petition is filed under Section 115 C.P.C. challenging the order, dated 30.07.2017 in E.P.No.111 of 2017 in O.S.No.1698 of 2004 passed by the II Additional Junior Civil Judge, R.R. District at L.B.Nagar, entrusting warrant of delivery to the Amina of the Court for delivery of the schedule property shown in the rough sketch attached to the petition.

The petitioner is the Judgment Debtor and the respondent is the decree holder. The only objection before this Court is that the specific measurement of the said property was not mentioned in the rough sketch. Therefore, the decree is not executable.

It is undisputed fact that the suit filed by the decree holder was decreed and the matter was carried in the first appeal, which was ended in dismissal and now the second appeal is pending before this Court at the stage of admission. Therefore, the decree as on today is executable and the decree holder is entitled to recover possession of the property in terms of the decree.

The only dispute is that there are no specific measurements to the property recovered and as seen from the schedule property annexed to the decree, the land measuring 52 sq. yards (9.5 x 45) out of the total land admeasuring 152 sq. yards of Plot No.151 (Eastern Part), in Survey No.14, Plot No.41, situated at Mamathanagar, Nagole Village, Uppal Mandal within four boundaries mentioned therein is sought to be recovered and therefore, when the schedule itself is clear with measurements and

boundaries specifically, decree is executable, on the ground of failure to mention the measurements in the rough sketch, and hence, EP cannot be dismissed. If the petitioner is questioning the executability of the decree, the remedy is otherwise, but not in the revision. As such, the impugned order passed by the Court below is free from any illegality, warranting no interference of this Court exercising power under Section 115 C.P.C. as the jurisdiction of this Court under Section 115 C.P.C. is limited and such jurisdiction can be exercised by this Court only when the Court below passed any order appears to have exercised not vesting on it by law or failed to exercise jurisdiction vested or to have acted on its jurisdiction illegally or with material irregularity. In the absence of any such illegality or irregularity in exercise of jurisdiction by the Court below or failure to exercise the jurisdiction that vested on it or exercise by excessive jurisdiction that conferred on it. In the absence of establishing any of these three grounds, this Court cannot interfere with the order passed by the Court below in execution petition. Therefore, I find no merit in the revision petition and it is devoid of merits and the same is liable to be dismissed at the stage of admission.

In the result, the civil revision petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY,J

20.02.2018
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