

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.171 OF 2017

ORDER:

This revision petition is filed under Section 115 C.P.C. questioning the order dated 02.01.2017 passed in E.A.No.3 of 2017 in E.P.No.2 of 2013 in O.S.No.1382 of 2003 by the IV Additional Senior Civil Judge, Visakhapatnam to grant police aid to the Court Ameen for delivery of property to the auction purchaser in E.P.No.2 of 2013.

The 1st respondent is the auction purchaser of the schedule property in E.P.No.2 of 2013 in O.S.No.1382 of 2003 filed petition before the executing Court to provide police aid to the Court ameen for delivery of vacant possession on the ground that the Judgment Debtors obstructing to deliver possession and unless the police protection is granted, it is difficult to execute the delivery warrant.

After filing petition, the office put up not making it clear that notice to R1 to R4 was not given and thereafter it was adjourned twice as Presiding Officer was on leave, but on 02.01.2017, the petition was heard and passed the impugned order noting that there was no representation for the respondents.

The contention of the petitioners before the Court is that without serving notice on them, impugned order was passed, which is contrary to the principles of natural justice and requested to set aside the same.

As seen from the record, notices were not served on the petitioners herein as noted on the petition, but it was heard without notice. Therefore, the impugned order was passed in clear violation of principles of natural justice. Hence, the impugned order is liable to be set aside.

In the result, the civil revision petition is allowed setting aside the order dated 02.01.2017 passed in E.A.No.3 of 2017 in E.P.No.2 of 2013 in

O.S.No.1382 of 2003 by the IV Additional Senior Civil Judge, Visakhapatnam while remanding E.A.No.3 of 2017 in E.P.No.2 of 2013 to the IV Additional Senior Civil Judge, Visakhapatnam for disposal in accordance with law within four weeks from the date of receipt of a copy of this order after affording opportunity to both parties. There shall be no order as to costs.

Pending miscellaneous Petitions, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

14.11.2018
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