

THE HONOURABLE Dr.JUSTICE B. SIVA SANKARA RAO

Civil Revision Petition No. 3597 of 2018

ORDER :

The revision petitioners are the (Judgment Debtors-J.Drs.) in E.P.No.13 of 2017 filed under Order XXI Rule 32 CPC by the respondent/ D.Hr(Decree Holder), who obtained permanent injunction decree in O.S.No.65 of 2012 on the file of the Prl.Junior Civil Judge, Sullurpet, S.P.S.R.Nellore District, dt.28.11.2016 against them. The Execution Petition was filed on 17.04.2017. In the very execution petition at para-12 in the format, it is mentioned of the J.Drs. are causing obstruction to D.Hr. while carrying out agricultural works in the E.P.schedule and they are not allowing the Mandal Surveyor to measure the same which is violation of the orders of injunction decree, therefore the D.Hr prays to direct the J.Drs. to obey by summoning them and even they fail to obey, to send them to civil prison.

Heard and perused the material on record.

No doubt as pointed out by the learned counsel for the revision petitioners/ J.Drs., the twin requirements of Order XXI Rule 32 CPC which speaks of a person against whom disobedience of the permanent injunction decree sought for to the relief of sending to civil prison must have the opportunity and despite it there must be wilful disobedience. The contention of the learned counsel for the petitioners/ J.Drs. that the twin requirements are lacking in the case but that is not correct for the reason that the very prayer in the Execution Petition at para-12 mentioned about their causing obstructions to the agricultural operations not even allowing the Mandal Surveyor to measure the property despite the injunction decree with no right to cause obstruction and the evidence before the Court also as can be seen from the

impugned order, same no doubt shows the lower Court not properly appreciated in directing them to take into custody in the event of disobedience to send them to civil prison, should have been given an opportunity.

Having regard to above without going further if at all the J.Drs. want, pursuant to the order of the lower Court in directing to send them to civil prison, within one week from the date of receipt of the order to file affidavit obeying in the decree so far as closed E.P. by recording the same pursuant to this order and if they fail to file, proceed further with the order under execution impugned herein.

In the result, the revision is disposed of. Consequently, miscellaneous petitions, if any, pending in these revisions shall stand closed.

Date:07.08.2018
vvr

Dr. B.SIVA SANKARA RAO J,

