

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

C.R.P.Nos.3955 and 4222 of 2018

Common Order:

These two revisions are filed – (i) by the decree-holder in a suit for recovery of money and (ii) by the auction purchaser in execution of the money decree, challenging the dismissal of their applications under Order VII, Rule 11 CPC for the dismissal of the claim petition filed under Order XXI, Rule 19 CPC.

2. Heard Mr. E.V.V.S. Ravi Kumar, learned counsel for the petitioner in both the revisions and Mr. K.Venkata Siva Prasad, learned counsel for the respondents.

3. The Court below has rejected the applications under Order VII, Rule 11 CPC on the short ground that the same would apply only to suits and not to these proceedings. Though Section 141 states that the procedure prescribed in the Code in relation to suits, shall also apply to proceedings, I think I need not venture into the academic exercise in this case, for finding out whether the provisions of Order VII, Rule 11 CPC would apply to claim petitions filed under Order XXI, CPC.

4. Suffice to point out that E.P.No.58/2017, is being contested by the decree-holder and the auction purchaser on several grounds including one of limitation. The claim petitions are to be tried like suits. Therefore, the revisions are dismissed, leaving it open to the decree-holder as well as the

auction purchaser to raise all pleas in the claim petitions, including the plea of limitation. The Court below shall give all opportunities to both parties and decide the claim petitions on merits. Pending applications, if any, shall stand closed. No costs.

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V.RAMASUBRAMANIAN, J.

28<sup>th</sup> September, 2018.  
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