

THE HON'BLE JUSTICE SRI T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.758 of 2016

ORDER:

1 This Civil Revision Petition is filed under Section 115 of CPC, assailing the order dated 28.12.2015 passed in I.A.No.995 of 2014 in A.S.No.3 of 2014 on the file of the Court of the Senior Civil Judge, Chirala.

2 Heard the learned counsel for both sides.

3 A perusal of the record reveals that the first respondent filed O.S.No.213 of 2008 on the file of the Court of the Principal Junior Civil Judge, Chirala against the second respondent for recovery of the suit amount. The trial court decreed the suit on 28.06.2010. The first respondent filed E.P.No.61 of 2011 in O.S.No.213 of 2008 for realisation of the decretal amount. During the pendency of the E.P. the petitioner filed E.A.No.9 of 2012 in E.P.No.61 of 2011 in O.S.No.213 of 2008 under Order XXI Rule 58 CPC. The trial Court, after affording reasonable opportunity to both parties, dismissed the E.A.No.9 of 2012. Feeling aggrieved by the order of the trial Court, dated 16.7.2013, the petitioner filed A.S.No.3 of 2014 on the file of the Court of the Senior Civil Judge, Chirala. Along with the appeal, the petitioner filed I.A.No.995 of 2014 seeking interim stay of all further proceedings in E.P.No.61 of 2011. The appellate Court dismissed that petition. Hence the present Civil Revision Petition.

4 It is an admitted fact that the petitioner filed E.A.No.9 of 2012 under Order XXI Rule 58 CPC claiming that he is the owner of the E.P. schedule property. During the pendency of the appeal,

if the first respondent is permitted to sell the E.P Schedule property in order to realise the decretal amount, the same may cause prejudice and hardship to the petitioner. Once the executing court conducts the sale, the very purpose of filing the appeal will be defeated.

5 Taking into consideration the facts and circumstances of the case, this Court is of the considered view that this is a fit case to allow the Civil Revision Petition and set aside the impugned order.

6 In the result, the Civil Revision Petition is allowed, setting aside the order dated 28.12.2015 passed in I.A.No.995 of 2014 in A.S.No.3 of 2014 on the file of the Court of the Senior Civil Judge, Chirala. Consequently I.A.No.995 of 2014 is allowed.

7 The appellate Court is hereby directed to dispose of the appeal itself on or before 30.08.2018. The learned counsel for the petitioner submitted that the petitioner will cooperate with the appellate court for disposal of the appeal. In the light of the above observations, there shall be interim stay of all further proceedings in E.P.No.61 of 2011 in O.S.No.213 of 2008 on the file of the Court of the Principal Junior Civil Judge, Chirala till 30.08.2018. No order as to costs. As a sequel, miscellaneous petitions, if any pending in this Civil Revision Petition, shall stand closed.

T. SUNIL CHOWDARY, J.

Dt: 11.07.2018

Kvsn