

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.2666 of 2012

ORDER:

The revision petitioners are the decree-holders. In fact, original Decree-holder died and his legal representatives came on record, even in Execution Petition. They questioned the order dated 09.04.2012 in E.P. No.65 of 2002 in O.S. No.39 of 1988 passed by the learned Senior Civil Judge, Tadepalligudem.

2. Touching the facts, *suffice* it to say that the decree-holders succeeded in getting decree for enforcement of agreement of sale concerning E.P. schedule property. The relevant direction was given for execution of the registered sale deed by judgment-debtors 1 and 2, who are respondents 1 and 2 herein, while dismissing the suit against defendant No.3 therein, who is also shown as respondent No.3, but described him as not necessary party to the present Revision.

3. While things stood thus, Government initiated acquisition proceedings and at the stage of Section 6 (1) declaration of the Land Acquisition Act (for short, 'the Act'), which was also published, the present order was passed.

4. In fact, before the Execution Court on behalf of judgment-debtors 1 and 2, R.Ws.1 and 2 were examined, Exs.B1 and B2 besides Exs.X1 to X3 were marked on behalf of the respondents;

whereas on behalf of the petitioners/decreed-holders Exs.A1 to A5 were marked. Ex.B1 is W.P. No.24574 of 2004. Ex.B2 is the affidavit and petition in I.A. No.940 of 2006 in O.S. No.39 of 1988.

5. The learned Senior Civil Judge referred to the evidence of R.Ws.1 and 2, whose evidence would show that, Revenue Divisional Officer, Eluru, who worked earlier, and also another Revenue Divisional Officer, Eluru, who worked from 6.10.2011 through whom Ex.X1-attested copy of notification under Sections 9 (1) and 10 of the Act, Ex.X2-attested copy of notification under Sections 9 (3) and 10 of the Act and Ex.X3, attested copy of draft declaration under Section 6 of the Act are marked.

6. Then, the learned Execution Court referred to the rulings in **G. Subrahmanyam (died) per LRs v. G. Leela and others** [2011 (5) ALT 790 (DB)]; **Visakhapatnam Urban Development Authority and another v. Smt.Rani Kamala Devi and another** [2010 (1) ALT 168 (D.B.)], **Goverdhana Chakradharachari and others v. District Collector, West Godavari District and others** [2008 (4) ALT 121], **Oxford English School v. Govt. of Tamil Nadu** [AIR 1995 SC 2398], **Md. Abdul Gaffar v. Government of Andhra Pradesh and others** [2008 (2) ALD 165], **Ch. Lokanadh v. District Collector, W.G. Eluru and others** [2008 (6) ALD 801], **Eugeno Misquita & Others v. State of Goa & Ors.** [1997 SAR (CIVIL) SC 847], **Ramaswami Chettiar and others v. Chidambaram Chettiar** [AIR 1954 Madras 1040], **M.A. Khan v. P.J. Surana and another**

[AIR 1972 Bombay 217], **Sunil Kumar Jain v. Kishan and others** [AIR 1995 SC 1891], **Shyam Rao v. Land Acquisition Officer (Spl.) cum-Dy. Collector, and others** [AIR 1991 Andhra Pradesh 219], **Ramakutty Gupta v. Avara** [AIR 1994 SC 1699]; and then referred to the evidence of R.W.2, who asserted that award was not passed yet on account of stay granted by this Court and expresses doubt that the judgment-debtors have got right to execute the document since the land acquisition proceedings were started by the Government and the Government proposed to acquire E.P. schedule property for the purpose of Summer storage tank for Tadepalligudem public and Section 6 Notification was also issued, and, therefore, closed the Execution Petition for the time being giving liberty to the decree-holders to seek reopen of the execution petition after land acquisition proceedings are finally disposed of without necessity of the filing of any fresh Execution Petition.

7. Heard Sri S. Subba Reddy, learned counsel for the petitioners and Sri J. Seshagiri Rao, learned counsel for the respondents.

8. Virtually, under these circumstances, it is difficult to allow the Civil Revision Petition directing the Court below to proceed with Execution Petition, whether the stay is still in force or vacated and whether the proceedings were concluded on the file of this Court are all not known. In fact, Executing Court has already given liberty to get the E.P. reopened. Hence, the revision petitioners to move an

application to reopen the E.P. and to continue proceedings to get E.P. to reach its logical end.

9. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the Civil Revision Petition shall stand closed.

A. SHANKAR NARAYANA, J

June 25, 2018.
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