

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.2522 OF 2016

ORDER:

This Civil Revision Petition is filed under Section 115 of C.P.C. assailing the order dated 02.05.2016 passed in O.E.P.No.24 of 2014 in O.S.No.255 of 1996 on the file of the Court of the Junior Civil Judge, Punganur, Chittoor District.

2. Heard the learned counsel for both parties.

3. The facts leading to filing of the present revision petition are briefly as follows:

Respondent Nos.1 to 3 herein have filed O.S.No.255 of 1996 against the petitioner herein and others on the file of the Court of the Junior Civil Judge, Punganur, for perpetual injunction. Thereafter, the matter was settled before the Lok Adalat on 15.12.1996. Respondent Nos.1 to 3 herein have filed O.E.P.No.24 of 2014 in O.S.No.255 of 1996 against the petitioner and others for violation of the award of the Lok Adalat. The Executing Court passed the impugned order while issuing warrant against the petitioner and others. Hence, the revision petition.

4. A perusal of the record reveals that the petitioner herein engaged a counsel in O.E.P.No.24 of 2014 in O.S.No.255 of 1996. For one reason or other, the counsel appearing on behalf of the petitioner reported no instructions. The record further reveals that the petitioner did not cross-examine PW.1. The record also reveals that the Executing Court passed an *ex parte* order.

5. A perusal of the record clearly reveals that no reasonable opportunity was given to the petitioner herein to defend his case. If the impugned order is allowed to stand, certainly it would amount to miscarriage of justice.

6. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that that it is a fit case to set aside the order dated 02.05.2016 passed in O.E.P.No.24 of 2014 in O.S.No.255 of 1996 on the file of the Court of the Junior Civil Judge, Punganur, so far as the petitioner-defendant No.2 is concerned and remand the matter to the Executing Court for disposal in accordance with law.

7. In the result, the Civil Revision Petition is allowed setting aside the order dated 02.05.2016 passed in O.E.P.No.24 of 2014 in O.S.No.255 of 1996 on the file of the Court of the Junior Civil Judge, Punganur, Chittoor District. The matter is remanded to the Executing Court. The learned Junior Civil Judge, Punganur, is hereby directed to dispose of O.E.P.No.24 of 2014 in O.S.No.255 of 1996, as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order. If the petitioner did not co-operate with the Executing Court, the Executing Court is at liberty to proceed with the matter in accordance with law. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 06.06.2018
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