

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.3844 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the order dated 05.01.2016 in I.A.No.391 of 2015 in O.S.No.47 of 2015 on the file of the Court of Additional District Judge, Hindupur.

2. Heard the learned counsel appearing for both the parties.

3. A perusal of the record reveals that the respondent filed O.S.No.47 of 2015 on the file of the Additional District Judge, Hindupur, against the petitioner for recovery of an amount of Rs.38,00,000/- with future interest. The respondent also filed I.A.No.391 of 2015 under Section 52 of Transfer of Property Act read with Section 151 CPC to direct the District Registrar to cancel the sale deed dated 19.12.2015. The trial Court passed *ex parte* order. Hence the revision.

4. A perusal of the record reveals that the respondent filed a suit against the petitioner for recovery of suit amount. The respondent also filed a petition under Order 38 Rule 5 CPC for attachment of the suit schedule property. The trial Court allowed that petition. Thereafter, the respondent filed the present petition. The trial Court without giving an opportunity to the petitioner, straight away passed the impugned orders directing the District Registrar to cancel the sale deed dated 19.12.2015.

5. It is needless to say that the Court has to give a reasonable opportunity to both parties before passing orders. It is also a known fact that even the District Registrar has no power whatsoever to cancel the sale deed unilaterally. The petitioner sold the property to third parties during pendency of the suit. For one reason or the other, the respondent did not choose to implead the vendee of the petitioner, who is the affected party if the sale deed in question is cancelled.

6. Taking into consideration the facts and circumstances of the case, this Court is of a considered view that it is a fit case to allow the revision.

7. In the result, the civil revision petition is allowed setting aside the *ex parte* order dated 05.01.2016 in I.A.No.391 of 2015. The trial Court is hereby directed to dispose of I.A.No.391 of 2015 in accordance with law after affording a reasonable opportunity to both parties. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

23rd July 2018
Rns

T.SUNIL CHOWDARY, J

