

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.172 OF 2017

ORDER:

This revision petition is filed under Section 115 C.P.C. questioning the order dated 02.01.2017 passed in E.A.No.4 of 2017 in E.P.No.2 of 2013 in O.S.No.1382 of 2003 by the IV Additional Senior Civil Judge, Visakhapatnam.

The 1st respondent is the auction purchaser of the schedule property in E.P.No.2 of 2013 in O.S.No.1382 of 2003, obtained sale certificate from the Court, and filed E.P.No.2 of 2013 for delivery of the property. But apprehending obstruction of the Judgment Debtors to deliver the property by Ameen, the 1st respondent filed petition to order police aid to the Court Ameen in execution of warrant. The Judgment Debtors refused to vacate the schedule premises and also refused to receive the notices while stating that they have locked the premises and sought for issue of blank arrest warrant at least four in number to enable the Court ameen to remove the obstruction. But the Court passed the following order:

“Perused the record. No representation for the respondents. Auction purchasers filed the above E.P.2 of 2013, for delivery of the schedule property and it seems the JDR's caused obstruction. Hence, the delivery to be affected.

Hence, this petition is allowed, permitting the Court Ameen to cause general arrest of the obstructors for execution of the delivery warrant.”

Aggrieved by the same, the present revision is filed on the ground that issue of such blank arrest warrant is not contemplated under Order XXI C.P.C., but the Court below passed such impugned order without applying its mind and requested to set aside the same.

During hearing, learned counsel for the petitioners reiterated the grounds mentioned in the petition, whereas, learned counsel for respondents supported the impugned order.

As seen from the impugned order, it is clear that the relief claimed by the petitioners is to issue blank arrest warrant apprehending that there is possibility of obstruction by JDrs for delivery of possession in execution of warrant by Court Ameen and without disclosing the names of any of the expected obstructors, is an illegality and is not executable. Therefore, the impugned order is liable to be set aside.

In the result, the civil revision petition is allowed setting aside the order dated 02.01.2017 passed in E.A.No.4 of 2017 in E.P.No.2 of 2013 in O.S.No.1382 of 2003 by the IV Additional Senior Civil Judge, Visakhapatnam while remanding E.A.No.4 of 2017 in E.P.No.2 of 2013 to the IV Additional Senior Civil Judge, Visakhapatnam for disposal in accordance with law within four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Pending miscellaneous Petitions, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

14.11.2018

Note: issue c.c. by 19.11.2018

b/o

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