

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.6614 OF 2018

ORDER:

Having regard to the nature of the order, in the considered view of this Court, this civil revision petition can be disposed of at the admission stage without the expediency of ordering notice to the respondent/plaintiff/deGREE holder.

2. The respondent filed suit O.S.No.25 of 2005 on the file of Senior Civil Judge, Chirala, against the petitioners/judgment debtors/defendants and obtained a mortgage decree against them. Subsequently he filed E.P.No.28 of 2017 for sale of E.P. schedule mentioned mortgage property for realization of the E.P. amount.

3. The contention of the petitioners/judgment debtors *inter alia* is that the E.P. schedule property is an assigned land, hence, the same cannot be sold in public auction. To show that E.P. schedule land, falls in Survey No.373/25 in an extent of Acres 0.27 cents of Vetapalem Village and it is a prohibited land as per the District Collector's proceedings dated 15.09.2017, the petitioners/judgment debtors filed Ex.R1 - market value assistance certificate, issued by the Joint Sub-Registrar, Chirala. The execution court refused to consider the said certificate on the observation that issuance of notification by the Government is necessary to come to a conclusion that particular land is an assigned

land/prohibited land. Since no such copy of notification was filed by the judgment debtors to show that E.P. schedule mortgage property was assigned land/prohibited land, their argument cannot be considered. The execution court, accordingly, set aside the objection and directed that the E.P. schedule property be sold in public auction for realization of the E.P. amount and posted the matter for filing sale papers and encumbrance certificate.

4. Learned counsel for petitioners would submit that the E.P. schedule property is an assigned land and due to ignorance, the judgment debtors could not file the notification issued by the Government to that effect and an opportunity may be afforded to the petitioners to file the notification issued by the Government to show that the E.P. schedule property is an assigned land and hence, it is a prohibited land.

5. Considering the fact that the determination of the nature of the property will avoid multiplicity of proceedings in future, this Court is of the view that an opportunity should be given to the petitioners/judgment debtors to file the notification said to be issued by the Government.

6. In the result, this civil revision petition is allowed and the impugned order dated 17.08.2018 in E.P.No.28 of 2017 in O.S.No.25 of 2005 passed by the learned Senior Civil Judge,

Chirala, is set aside and the said court is directed to accord permission to the petitioners/judgment debtors to file the notification issued by the Government declaring that the E.P. schedule property, which is said to be comprised in Survey No.373/25 in an extent of Acres 0.27 cents in Vetapalem village, is an assigned land. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

26.11.2018

U.DURGA PRASAD RAO, J

*Note: issue C.C. by 28.11.2018
B/o.SS*

