

**THE HON'BLE SRI JUSTICE N.BALAYOGI**

**CIVIL REVISION PETITION No.6148 of 2017**

**ORDER:**

This revision under Article 227 of Constitution of India is filed being aggrieved by the orders in E.P.No.42 of 2017 in O.S.No.72 of 2016 dated 11.10.2017 on the file of IV Additional District Judge-cum-Special Judge for trial of cases under SC & ST (Prevention of Atrocities) Act, Vizianagaram.

2. Learned counsel for the petitioner contended that the first respondent herein filed a suit in O.S.No.72 of 2016 against the second respondent herein for recovery of money basing on agreement of sale. The Bank of India invoking the provisions under Section 5 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has sold the property in dispute to the petitioner herein and delivered the possession on 17.12.2013. However, O.S.No.72 of 2016 was decreed on 17.01.2017 and the first respondent, seeking execution of the decree, filed E.P.No.42 of 2017 in which, the Special Judge, on 11.10.2017 passed the following order:

“Jdr called absent affixed to company door held sufficient servicing. JDr set exparte for payments of batta to issue warrant of attachment and to issue police and time given till 13.10.2017. Report call on 10.11.2017.”

Aggrieved by the said order, the petitioner filed the present revision. It is further contended that subsequent to filing of the present revision, the petitioner filed E.A.No.40 of 2017 under Order 21 Rule 58 C.P.C. in E.P.No.42 of 2017 to determine the claim of the petitioner herein and to set aside the attachment effected. The said

E.A. is pending before the IV Additional District Judge-cum-Special Judge for trial of cases under SC & ST (Prevention of Atrocities) Act, Vizianagaram.

3. Now the learned counsel for the petitioner seeks a direction to the Court below to dispose of E.A.No.40 of 2017 filed under Order 21 Rule 58 C.P.C. The learned counsel appearing for the respondents reported that they have no objection if a direction is given to the Court below to dispose of E.A.No.40 of 2017 by closing the present revision.

4. Accordingly, the C.R.P. is closed and considering the existing dispute, the Court below is directed to dispose of E.A.No.40 of 2017 in E.P.No.42 of 2017 in O.S.No.72 of 2016 after giving opportunity to both the parties, as expeditiously as possible, preferably, within a period of four (4) months from the date of receipt of a copy of this order. No costs.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

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JUSTICE N.BALAYOGI

02<sup>nd</sup> February 2018

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