

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.6756 of 2017

ORDER:

Aggrieved by the dismissal of the Execution Petition, as a consequence of the sale being set aside under Order XXI Rule 90, the decree holder has come up with the above revision petition.

2. Heard Mr. Sricharan Telaprolu, learned counsel for the petitioner.

3. Notices were ordered in the above revision on 08.12.2017. Service of notice on the 2nd respondent is completed. The 1st respondent had already died.

4. The limited grievance of the petitioner is that after allowing an application under Order XXI Rule 90 CPC and setting aside a sale held by the Court, the Court would not have closed the Execution Petition itself. It is seen from the order in E.A.No.187 of 2009 that the sale was set aside due to various procedural irregularities, such as lack of notice to the judgment debtor under Order XXI Rule 64, lack of proper publication in newspapers etc.

5. Once the sale is set aside on technicalities such as non-impleadment of other defendants, the sale can be set aside but the Execution itself cannot be closed. The Court has to proceed further with the Execution to enable the decree holder to realize the fruits of the decree in a manner known to law. Therefore, the civil revision petition is allowed, that portion of the order of the Executing Court where the E.P is dismissed, alone is set aside. The Court below shall take up the Execution Petition along with E.As., implead necessary parties including the minor, and proceed in accordance with law. There shall be no order as to costs.

6. As sequel, miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

15th March, 2018
Js.



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.6756 of 2017



15th March, 2018

Js.