

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.6699 OF 2017

ORDER:

Heard Sri Tarlada Vinod Kumar, learned counsel for the revision petitioner - judgment debtor No.1.

2. In fact, E.A. No.259 of 2016 in E.P. No.98 of 2009 was filed by respondent No.1 herein - decree-holder, under Sections 151 and 153 of Code of Civil Procedure, 1908 (for short 'CPC'), to permit him to amend the E.P. Schedule Item Nos.1 and 3 in the interest of justice.

3. Though, it appears that wrongly mentioned as E.P. Schedule Item Nos.1 and 3, even according to the learned counsel for the revision petitioner, it is only item No.1, in regard to which, the relief was granted.

4. Perused the order under challenge.

5. The executing Court discarded the resistance offered by the judgment-debtors and formulated the point for consideration, and, thereafter, examined the sale deed as well as encumbrance certificate and found that entire extent of Ac.1-30 cents of item No.1 of the schedule was, in fact, divided into three plots, but, somehow, at the time of attachment, the decree-holder shown it as one part. Then referring to the decision relied on by the learned counsel for the decree-holder in **M.A. Rasheed v. T.s. Mahaboob Basha** [2002 (2) L.S. 46], where, the term 'proceeding' was interpreted, occurring in

Section 153 of CPC, applies to execution proceedings observing that no prejudice would be caused to the judgment-debtors, allowed the petition and also directed to carry out the amendment.

6. The learned counsel for the revision petitioner would contend that it was impermissible for the executing Court to grant amendment under Section 153 of CPC, but, however, the learned counsel is fair enough to submit that in fact, the extent of Ac.1.30 cents was divided into three (3) plots, but, the decree-holder deliberately did not show distinctly as three (3) plots, but shown it as contiguous plot, and, therefore, he challenges the present order.

7. Of course, the ruling relied on by the executing Court would make it clear that even the execution proceedings would fall within the mischief of Section 153 of CPC and when already three plots were existing, at the time when the attachment order was issued, to bring it to the notice of the Court, which would facilitate the execution proceedings, convenient for execution, the order passed by the executing Court to show the real nature of the property, which was even earlier to attachment order being passed, was in three (3) plots, but not one contiguous plot, certainly, there is no error crept in passing the order under challenge. Thus, there is no merit in the present revision petition

8. Therefore, the Civil Revision Petition is dismissed, at the admission stage itself. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in the present revision petition stand dismissed.

A. SHANKAR NARAYANA, J

January 2, 2018.

PV

