

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.7027 OF 2017

O R D E R :

This revision is filed against the docket order dated 13-11-2017 in EP.No.86 of 2011 in O.S.No.475 of 2009 on the file of Senior Civil Judge, Bhimavaram, West Godavari District, wherein the Court below ordered for proclamation of sale on 13-12-2017 and direction to publish the same in newspaper 'Prajha Shakthi'.

Learned counsel for the petitioners submits that respondent-decree holder obtained exparte decree in O.S.No.475 of 2009 dated 31-07-2010 and no summons are served on the petitioners and all of them were residing in outside the State and the petitioners filed petition to set aside the exparte decree in the year 2013 itself and the same was numbered as I.A.No.281 of 2015 and another petition for condonation of delay in filing petition to set-aside the exparte decree and without taking-up that I.As, the trial Court proceeding with the E.P.No.86 of 2011 filed for execution of decree in O.S.No.475 of 2009 and passed the impugned order.

On the other hand, learned counsel appearing for the respondent basing on the counter affidavit submits that though the petitioners have participated in the enquiry in E.P. on 19-04-2017 and 05-09-2017, they have not prosecuted the said I.As and there are no bonafidees on the part of

petitioners in taking such plea and that no summons are served on them, since they are participating in the E.P. proceedings.

It is to be seen that in the cross-examination of respondent as PW.1 in the E.P., she admitted that application filed by the petitioners to set aside the exparte decree is pending. But it is not known why the petitioners are not pursuing the said application, though they have participated in the E.P. proceedings. This shows that there are no bonafidees on the part of the petitioners. It is also stated that suit amount is only Rs.6.00 lakhs but the property worth Rs.60 lakhs is sought to be sold and learned counsel for the petitioners submits to show their bonafidees, the petitioners will deposit certain amount. Though this Court finds that petitioners were not diligent enough to prosecute the interlocutory application filed to set aside the exparte decree, since the petitioners counsel states that certain amount will be deposited, this revision is disposed of directing the trial Court to dispose of I.A.No.281 of 2015 within a period of four weeks from the date of receipt a copy of this order. Since the petitioners offer to deposit certain amount, there shall be stay of all further proceedings in pursuant to the impugned order on condition of petitioners depositing of 50% of the decretal amount within a period of two weeks from the date of receipt a copy of this order and said deposit shall be subject to further orders in the above said I.A. Further the petitioners

shall cooperate for disposal of I.A. In default of payment of 50% of the decretal amount, the trial Court shall proceed further in the E.P.

Accordingly, CRP is disposed of. As a sequel thereto, miscellaneous petitions, if any, pending in this revision, shall stand closed.

A.RAJASHEKER REDDY, J

22-01-2018
Nvl

