

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.6817 OF 2017

ORDER :

This Civil Revision Petition is filed by the petitioners/defendants/respondents 6 to 12 against docket order dated 14.11.2017 in E.P.No.93 of 2017 in O.S.No.101 of 1997 wherein and whereby the Executing Court ordered delivery of possession of EP schedule property under Order 21 Rule 35 of CPC to the decree-holders/respondents 1 to 5 herein.

2. Heard learned counsel for the petitioners and learned counsel for the respondents/decreed holders.

3. Heard learned counsel for the petitioners, who submits that no notice was given to the petitioners in E.P.No.93 of 2017 in terms of clauses V and VI of the Decree passed in O.S.No.101 of 1997. He submits that no notice was issued to the petitioners before execution of registered sale deeds in favour of the respondents/decreed holders. He submits that no notice was issued to the petitioners to put the respondents/decreed holders in physical possession of the property immediately on the date of execution of registered sale deed, within two months, as such, the impugned order is in violation of clauses V and VI of the decree in O.S.No.101 of 1997 dated 01.02.2007.

4. On the other hand, learned counsel appearing for the respondents/decreed holders submits that though petitioners were participated in EP No.12 of 2008, no steps were taken by them for payment of costs, though directed by this Court while granting stay in Second appeal and same was brought to the notice of the Executing Court by way of memo dated 08.08.2017. He submits that after giving notice to the petitioners in EP, order dated 11.09.2017 was passed for registration of the sale deeds. In pursuant to the same, sale deed was executed on 09.10.2017, as such EP No.93 of 2017 was filed for delivery of possession, therefore, no exception can be taken for passing the impugned order. He also submits that when once the registered sale deed is executed and stay in the Second Appeal expired long back, there are no bonafides on the part of the petitioners to challenge the impugned order in this petition.

5. It is to be seen that admittedly, after issuing notice in EP No.12 of 2008 on 08.08.2017 and after giving sufficient opportunity to the petitioners, order dated 11.09.2017 was passed in the EP No.12 of 2008 and directed for registration by the Court ameen and same was challenged in CRP No.6988 of 2017, which was dismissed on merits today. Admittedly, conditional stay was granted by this Court in the Second Appeal preferred by the petitioners, but the said condition was not complied with by the petitioners. As such,

there is no stay operating in the subject matter before the Court below in the Execution Petition as on today. As such, the Court below rightly issued impugned proceedings in the EP. Even according to the petitioners, there is no stay operating as on the date of impugned order i.e., 14.11.2017. If that is the case, even if notice is issued to the petitioners, that will not improve their case and that issuance of notice to the petitioners becomes an empty formality. The decree-holder has deposited non-judicial stamps and draft sale deed was presented and after matter was adjourned more than three times, order dated 11.09.2017 was passed for registration of the sale deed and same was also done on 09.10.2017. Though the petitioners are party in the EP No.12 of 2008, present CRP is filed on 04.12.2017, just watching the proceedings.

In view of the same, I do not see any infirmity or illegality in the orders passed by the Court below.

Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed.

A.RAJASHEKER REDDY, J

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