

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.7207 of 2017

ORDER:

This revision petition is filed under Section 115 CPC assailing the orders dated 15.11.2017 passed in E.P.No.125 of 2003 in O.S.No.728 of 1998 on the file of Principal Junior Civil Judge Court, Visakhapatnam.

2. Heard the learned counsel appearing for both the parties and perused the material available on record.

3. A perusal of the record reveals that the first respondent filed O.S.No.728 of 1998, against the petitioner for perpetual injunction. During pendency of the suit, the first respondent died and respondents 2 and 3 were brought on record as legal representatives of R1. After full fledged trial, the trial Court decreed the suit in favour of respondents 2 and 3 against the petitioner.

4. The respondents 2 and 3 filed E.P.No.125 of 2003 in O.S.No.728 of 1998 on the ground that the petitioner violated the injunction orders. On 15.11.2017, the executing Court issued a warrant directing the Amin to produce the petitioner before the Court. A perusal of the record reveals that the executing Court without service of show cause notice to the petitioner, straight away issued warrant, which is not permissible under law. If the order of the executing Court is allowed to stand, certainly it would amount to miscarriage of justice.

5. Taking into consideration the facts and circumstances of the case, this Court is of a considered view that it is a fit case to allow the revision petition.

6. In the result, the Civil Revision Petition is allowed setting aside the orders dated 15.11.2017 in E.P.No.125 of 2003 in O.S.No.728 of 1998 on the file of Principal Junior Civil Judge Court, Visakhapatnam. The Executing Court is hereby directed to dispose of E.P.No.125 of 2003 in accordance with law. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:04.12.2018
Rns

T.SUNIL CHOWDARY, J

