

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.122 of 2019

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908, is filed by the petitioners/third parties, challenging the order, dated 19.12.2018, passed in E.A.No.141 of 2016 in E.P.No.635 of 2013, by the Principal Junior Civil Judge, Warangal, whereby, the petition filed by the revision petitioners/third parties under Section 151 of CPC praying to dismiss the above E.P. and recall the warrant from the Bailiff, was dismissed.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the revision petitioners/third parties would contend that a fraudulent decree was obtained. The E.P. Schedule property was amended, which is not tenable. There are Ex.P.1 to Ex.P.7 to substantiate the case of the revision petitioners/third parties and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. On the other hand, the learned counsel for the 1<sup>st</sup> respondent/decree holder would contend that a frivolous application was filed to delay the execution proceedings. The question raised cannot be determined in an application filed under Section 151 of CPC and ultimately prayed to sustain the impugned order and dismiss the Civil Revision Petition.

5. The subject E.A.No.141 of 2016 is filed under Section 151 of CPC, praying the Court below to dismiss the above E.P. and to recall the warrant of attachment of E.P. schedule property from the Bailiff. In the course of submissions, it is brought to the notice of this Court that a comprehensive suit in O.S.No.162 of 2016 on the file of II Additional District Judge at Warangal, is filed by the revision petitioner No.2 against the 1<sup>st</sup> respondent/decreed holder and the same is pending. In the given circumstances, it is open to the revision petitioners to work out the remedies available to them under law. The subject application filed under Section 151 of CPC would not yield any result in their favour. The subject decree being executed in E.P.No.635 of 2013 is not yet stayed by any competent Court. Under these circumstances, the revision petitioners/third parties are not entitled for relief sought in the subject E.A.No.141 of 2016 in E.P.No.635 of 2013 on the file of the Principal Junior Civil Judge, Warangal. The Court below is justified in passing the impugned order. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

10<sup>th</sup> December, 2019  
Bvv

Dr. SHAMEEM AKTHER, J