

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2529 of 2019

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908, is filed by the petitioner/judgment debtor No.1, challenging the docket order, dated 18.10.2019, passed in E.P.No.46 of 2018 in O.S.No.75 of 1992, by the Senior Civil Judge, Khammam, whereby, on a petition filed by the respondents 1 and 2/decree holders under Order XXI Rule 35 of CPC, the Court below directed the judgment debtor to deliver possession of properties allotted to the share of the decree holders, as per the decree, and directed the bailiff to takeover the possession and handover the same to the decree holders, in accordance with the warrant issued, and accordingly issued warrant.

2. Heard the learned counsel for the revision petitioner/judgment debtor No.1 and perused the record.

3. The learned counsel for the revision petitioner/judgment debtor No.1 would contend that there is a comprehensive suit pending in between the parties to the litigation. In spite of bringing the same to the notice of the Court below, the Court below did not grant adjournment as prayed for and issued warrant to deliver possession of the properties allotted to the share of the respondents 1 and 2/decree holders, vide impugned docket order, dated 18.10.2019, which is erroneous, and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. As seen from the material placed on record, in the subject Suit in O.S.No.75 of 1992, preliminary decree was passed on 29.04.1994 and final decree was passed on 19.11.2015. Aggrieved by the same, the judgment debtors in the said suit filed an appeal and the said appeal was dismissed on 23.09.2019. Thereafter, the subject execution proceedings were initiated. Notice was ordered to the judgment debtors and ultimately, the Court below passed the impugned docket order, dated 18.10.2019.

5. It is pertinent to state that the original suit is of the year 1992 and the final decree passed in the said suit in favour of the decree holders, attained finality. Till date, there is no order from any Court to stop the execution of the aforementioned final decree. In view of the same, there is nothing wrong on the part of the Court below in passing the impugned docket order. There is no illegality or perversity in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

6. Accordingly, 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.

01st November, 2019
Bvv

Dr. SHAMEEM AKTHER, J