

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL REVISION PETITION No.3098 of 2019

ORDER:

This Civil Revision Petition is directed against the order dated 30.11.2019 in EP.SR.No.6124 of 2019 in O.S.No.334 of 1999 on the file of the Court of I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar (for short, trial Court).

2. The brief facts of the case are that one Mohd.Khaza Miya filed O.S.No.334 of 1999 before the trial Court against the respondents herein for perpetual injunction in respect of suit schedule property. During the pendency of the suit, the parties filed a memorandum under Order XXIII Rule 3 read with Section 151 of CPC for recording compromise, in pursuance of which, the trial Court passed a compromise decree on 02.02.2001. After a period of more than 18 years, the legal heirs, through their General Power of Attorney Holder, filed EP.SR.No.6124 of 2019 seeking to execute the compromise decree. The office of the trial Court took eight objections, for which, the counsel for the petitioners re-submitted the same by complying the objections. However, the office again returned the EP on the ground that '*provision of law not mentioned correctly*'. On the said objection, the counsel for the petitioners requested the office to post the case on bench. Accordingly, the case was called on bench on 30.11.2019. The trial Court, on hearing the learned counsel for the petitioners, returned the

petition on the ground that the same was filed under wrong provision of law. Challenging the same, the present CRP is filed.

3. Sri S.Srinivasa Chary, learned counsel for the petitioners, submits that wrong mentioning of provision of law is not a ground to return the case and seeks a direction to the trial Court to take the petition on file.

4. A perusal of the order under challenge, it reveals that the petitioners filed the petition under Order XXI Rule 16 of CPC, which deals with applications for execution by transferee of decree. Therefore, the trial Court, by reproducing the provision of law, returned the petition, which needs no interference. The counsel for the petitioners instead of re-submitting the petition under appropriate provision of law, filed the present Civil Revision Petition.

5. In the circumstances, the Civil Revision Petition is dismissed. However, the petitioners are at liberty to re-submit the petition before the trial Court under appropriate provision of law. Miscellaneous petitions pending, if any, in this CRP shall stand closed. No costs.

JUSTICE T.AMARNATH GOUD

Date: 03-01-2020
TJMR