

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

CIVIL REVISION PETITION No.1535 of 2013

ORDER :

This Civil Revision Petition is filed challenging the order dated 25.02.2013 passed by the Court of the Senior Civil Judge, Mangalagiri, Guntur District, in E.P.No.16 of 2012 in O.S. No.565 of 2008. Through the said order, the executing Court, dismissed the E.P.

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

This is the second time that, the petitioner is approached this Court in relation to the E.P. On earlier occasion, the E.P. was dismissed by the executing Court on 23.6.2012, by taking the view that the E.P. is not maintainable. It was observed that the said E.P. is referable to Rule 52 Order XXI CPC, and since the Garnishee company i.e., M/s Indian Potash Limited is neither a Court, nor a Public Officer, the E.P. is not maintainable.

The petitioner approached this Court by filing C.R.P. 3253 of 2012, and the same was allowed by this Court on 23.07.2012, and the executing Court was directed to pass afresh orders, in accordance with law. Through the order under present revision, the trial Court dismissed the E.P. by taking the same view, as it did earlier. Hence, this revision.

On noticing that, the executing Court committed serious irregularity, this Court called for remarks from the Presiding Officer. Learned Presiding Officer has since been submitted the remarks through the letter dated 24.03.2014. He admitted the patent mistake committed by him, and expressed his regrets and apology for the same. As it is the first mistake of that nature, a lenient view is taken, and no further action, is proposed.

It has already been mentioned that this Court took the view that the dismissal of the E.P. on the ground mentioned by the executing Court, is not proper, and the E.P. must be decided on merits.

The Civil Revision Petition is accordingly, allowed. The order under Revision is set aside, and the executing Court shall pass appropriate orders, within two (02) weeks, from the date of receipt of a copy of this order, after hearing both the parties. There shall be no order as to costs. Miscellaneous petitions, if any, filed in this petition, shall also stand closed.

L.NARASIMHA REDDY, J

Date: 28.03.2014
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