

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

CIVIL REVISION PETITION No.4227 of 2013

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ORDER:

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Respondent No.1 filed O.S.No.2260 of 1997 in the Court of the V Senior Civil Judge, City Civil Court, Hyderabad initially against respondent No.2 alone for the relief of specific performance of an agreement of sale, dated 13.03.1997. Stating that they purchased the suit schedule property much before the agreement of sale, the petitioners got themselves impleaded as defendant Nos.2 and 3 in the suit. The trial Court dismissed the suit on 15.10.2003. Aggrieved by that, respondent No.1 filed A.S.No.386 of 2006 in the Court of the XII Additional Chief Judge, City Civil Court, Hyderabad. The appeal was allowed through judgment, dated 29.04.2008. S.A.No.1130 of 2008 filed by the petitioners is pending before this Court. In S.A.M.P.No.2157 of 2012, an order of conditional stay, namely on deposit of Rs.5,000/- per month into the trial Court from 01.11.2008 onwards, was passed. Default clause was added. The petitioners did not comply with the condition, thereby, the interim order stood vacated. Respondent No.1 filed E.P.No.206 of 2011 in O.S.No.2260 of 1997 for execution of the decree. The petitioners entered appearance and opposed the E.P. by raising several grounds. The executing Court allowed the E.P. by order, dated 30.07.2013. Hence, this revision.

Heard the learned counsel for the petitioners and the learned counsel for respondent No.1.

It is the petitioners, who got themselves impleaded in the suit as defendant Nos.2 and 3 claiming rights over the suit schedule property. The suit no doubt was dismissed, but was decreed by the lower appellate Court. The second appeal preferred by the petitioners is pending. The conditions incorporated in the order of stay were not complied with and thereby, the stay stood vacated.

In the E.P. filed by respondent No.1, the petitioners alone filed counter. There was no opposition whatever from respondent No.2. One of the objections raised by the petitioners was that notice in the E.P. was not served upon respondent No.2. The second was about the discrepancy as to the boundaries of the property. On both counts, the executing Court held against the petitioners.

In case respondent No.2 was not served with notice, the grievance must be of himself and the petitioners cannot make out any grievance out of it. Secondly, it is not a case where the petitioners have any property other than the suit schedule property at the location concerned. Once the claim of the petitioners vis-à-vis the suit schedule property was rejected and a decree is passed, they cannot raise any objection as to identity.

It is urged that respondent No.1 has some other property by the side of the suit schedule property. Even if that is true, the objection must emanate from respondent No.1 and not from the petitioners.

Hence, the civil revision petition is dismissed. It is, however,

directed that the execution of the sale deed or delivery of possession of the property shall be subject to the result of the second appeal. There shall be no order as to costs.

The miscellaneous petition filed in this revision shall also stand disposed of.

L.NARASIMHA

REDDY,J

Dt:28.11.2014

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