

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION No.1174 of 2023

JUDGMENT:-

1. Heard Sri M. Venkataramana Reddy, learned counsel for the plaintiff/petitioner/decreed holder.
2. This writ petition under Article 226 of the Constitution of India has been filed for the following relief:-

“It is therefore prayed that the Hon’ble Court may be pleased to set aside the order dated 23.01.2023 in S.R.No.9772/2019 in O.E.P.No.75 of 2015 in O.S.No.65 of 2006 on the file of Principal Senior Civil Judge Court, Madanapalle and consequently direct the Principal Senior Civil Judge Court, Madanapalle to deliver the possession of plot Nos.3 to 6 which were allotted to the share of decreed holder in the final decree and pass such other or further orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. O.S.No.65 of 2006 was filed for partition in which preliminary decree, was passed on 30.10.2006. Subsequently on the petitioner’s I.A.No.2 of 2008, the final decree was prepared. The petitioner filed E.P.No.75 of 2015 for execution, by delivery of possession upon which the Court issued the delivery warrant to deliver vacant possession of the Plot Nos.1 to 5 allotted to the petitioners in the final decree. The Field

Assistant filed report dated 21.09.2019 that the Plot Nos.1 & 2 were delivered to the decree holder but some construction was going on in Plot Nos.3 to 5. The delivery of those plots could not be made to the petitioners.

4. On perusal of such report, by order dated 23.01.2023, the Execution Court/Principal Senior Civil Judge, Madanapalle considered it necessary to make enquiry and directed issuance of notice to the respondents herein, the judgment debtors.

5. Challenging the aforesaid order dated 23.01.2023, the present revision has been filed by the plaintiff decree holder.

6. Learned counsel for the petitioner could not point out any illegality in the impugned order for issuance of notice to the respondents judgment debtor. His only submission is that Plot Nos.1 and 2 were delivered and as such Plot Nos.3 to 5 should also have been delivered.

7. The Execution Court in consideration of the report submitted, finding that as per the report some constructions were being raised on Plot Nos.3 to 5, considered it appropriate to issue notice to the judgment debtor to afford opportunity. In this respect this Court does not find any illegality in the procedure adopted by the Execution Court.

8. In the exercise of the jurisdiction under Article 227 of the Constitution of India, this Court does not find any reason to interfere with the order of the Execution Court.

9. The petition is dismissed.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI,J

Date: 28.04.2023
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THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

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