



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3311]

**TUESDAY, THE FIFTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI

CIVIL REVISION PETITION NO: 1248/2023

Between:

Mandalapu Vijaya Lakshmi

...PETITIONER

AND

Kodali Nischal Deep

...RESPONDENT

Counsel for the Petitioner:

1. SANDHYA DEEPTHI MADDALA

Counsel for the Respondent:

1. MADHAVA RAO NALLURI

The Court made the following:

ORDER:

This revision petition under Article 227 of the Constitution of India, is filed aggrieved by the order, dated 20.04.2023, allowing E.A.No.6 of 2023 in E.P.No.6 of 2023 in O.S.No.1453 of 2021 on the file of the Court of V Additional Junior Civil Judge, Vijayawada, filed under Section 151 CPC to remove lock and break open the door of the decree schedule property.

2. Heard *Ms. Sandhya Deepthi*, learned counsel for the petitioner/judgment debtor and *Sri N. Madhava Rao*, learned counsel appearing for the respondent/plaintiff.

3. The plaintiff brought the suit against the defendant for a direction to the defendant to vacate the plaint schedule property and deliver vacant possession of the plaint schedule property to the plaintiff and to pay arrears of rent at the rate of Rs.9,000/- per month to the plaintiff from 01.04.2020 to 31.03.2021 to a tune of Rs.1,08,000/- and also future damages of Rs.18,000/- per month. The suit was decreed *ex parte* on 04.05.2022. The decree holder filed execution petition for delivery of the schedule property and the execution Court issued delivery warrant. On 28.02.2023, when the DHr along with the Amin went to the schedule property, the JDr did not allow the Amin to enter

into the schedule property and therefore, the warrant could not be executed.

4. The JDr filed counter opposing the petition and contending that taking advantage of the *ex parte* decree, the plaintiff is trying to evict her forcibly with a view to grab the property forcibly. There is no willful negligence or default on her part and the petition is liable to be dismissed.

5. After hearing both parties, the trial Court passed the impugned order the relevant part of which reads as follows:

“ Originally, the suit was decreed on 04.05.2022 in favour of the DHr/petitioner directing the JDr to vacate the EP schedule property within two months. Though sufficient time is granted, the JDr has not vacated the property. According to the petitioner, JDr did not choose to pay regular rent. So, in the circumstances delivery warrant issued, but the amin failed to execute the warrant due to obstruction caused by the JDr.

At this stage, the objections raised by the JDr are not tenable and the amin is permitted to break open the locks of schedule property for execution of delivery warrant.

Process and report call on 25.04.2023.”

6. The main contention of the revision petitioner is that the decree sought to be executed was obtained *ex parte* and that the revision petitioner came to know about the decree only on 03.03.2023 and

thereafter, steps have been taken to get the *ex parte* decree set aside, however, meanwhile, the DHr is illegally proceeding with the execution of the decree by dispossessing the revision petitioner, an old lady, from the schedule property.

7. On the other hand, the learned counsel for the respondent submitted that the revision petitioner/defendant remained *ex parte* without filing written statement even after engaging a counsel and no reason is stated as to why the written statement was not filed and now only for the purpose of protracting the execution of the decree, though passed *ex parte* and the same is legally enforceable, the revision petitioner is unnecessarily opposing the relief. He further stated that the revision petitioner is falsely stating that the Amin and the respondent did not go to the schedule property on 28.02.2023, however, the record shows that the revision petitioner illegally obstructed the execution of the warrant, and therefore, the execution Court has rightly passed the order providing police aid for due execution of the warrant for delivery of the property.

8. So long as the decree which is valid is in force, the same is executable. Though the revision petitioner contended that the petition was filed to set aside the *ex parte* decree, no particulars are provided. When there is no order of stay of the decree, the execution Court is

right in proceeding with the execution. No ground taken in the counter is sufficient to deny the relief sought. When there is obstruction for execution of the decree, the execution Court is competent to provide police aid for smooth conduct of the execution proceedings. As such, this Court does not see any reason to interfere with the impugned order.

9. In the result, the revision petition is dismissed.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

B. S. BHANUMATHI, J

15-10-2024
RAR