

SUPREME COURT OF INDIA

U.Sowri Reddy

Vs.

B.Suseelamma & Ors.

C.A.No.6322 of 2004

(Markandey Katju and Gyan Sudha Misra,JJ.,)

04.05.2011

JUDGMENT

Markandey Katju,J.,

1. This appeal has been filed against the order dated 12.4.2002 in C.R.P. No.5939 of 2001 of the High Court of Andhra Pradesh at Hyderabad.

2. Heard learned counsel for the parties and perused the record.

3. The facts have been stated in detail in the impugned order and hence we are not repeating the same here except where necessary.

4. One B. Chandrasekhara Reddy, the predecessor of the respondents herein filed suit no.23 of 1992 before the Subordinate Judge, Gooty against the appellant herein for recovery of an amount of Rs.26,720/- being the principal amount and interest due on a pronote dated 3.4.1991 executed by the appellant herein for Rs.24,000/- payable with interest at 12% per annum. That suit was decreed ex-parte by the learned Subordinate Judge, Gooty on 10.2.1995 and the plaintiff-respondent filed an Execution Petition for realization of the decretal amount by sale of the immovable property of the appellant. On 15.9.1997 the sale was held in favour of the respondents herein. It is alleged that the property was worth of Rs.15 lacs but was sold for Rs.3,15,000/- to realize the decretal amount of Rs.40,364/-.

5. The appellant herein filed an application under Order 21 Rule 90 C.P.C. to set aside the sale of property. That application was dismissed by the trial court. A Civil Revision Petition No.1423 of 1998 was filed by the appellant in the High Court against that order. The High Court by order dated 10.04.1998 gave an opportunity to the judgment debtor to pay the decretal amount.

6. It is alleged that on 16.4.1998 in pursuance of the High Court order dated 10.4.1998 the appellant herein deposited the decretal amount. However, on 22.7.1998 the Executing Court dismissed the application to set aside the sale of the property in question. Against that order a

Civil Revision was filed and on 9.10.1998 the High Court allowed the Civil Revision Petition No.3957 of 1998 and remanded the matter to the trial court for fresh disposal. Thereafter on 2.11.2001 the application of the appellant was allowed and the sale was set aside with a direction to the appellant to deposit a sum of Rs.18,000/-. That order has been set aside by the impugned order of the High Court and hence this appeal.

7. In our opinion the impugned order of the High Court cannot be sustained. It appears that the High Court ignored the deposit of Rs.18,000/- on 06.11.2001 in pursuance of order dated 2.11.2001, and failed to take into account the order dated 11.12.2001 of learned Additional Senior Civil Judge dismissing the Execution Petition No.17 of 1996 and also did not take into consideration the earlier order dated 10.4.1998 in Civil Revision Petition No.3957 of 1998.

8. In our opinion the High Court was not justified in interfering in a Civil Revision Petition under Section 115 C.P.C. when the amount of Rs. 18,000/- was deposited on 06.11.2001 as per order dated 02.11.2001.

9. For the reasons given above this appeal is allowed and the impugned order of the High Court is set aside.

.....J.

(Markandey Katju)

(Gyan Sudha Misra) New Delhi;

April 04, 2011