

HIGH COURT OF ANDHRA PRADESH
TUESDAY ,THE FOURTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI
CIVIL REVISION PETITION NO: 817 OF 2016

Between:

1. SINGANAPUDI EEDUKONDLU S/o Veerabadrulu,
Aged about 41 years, Occ: Employee in VTPS,
R/o A colony, J.E.97, Ibrahimpatnam,
Vijayawada, Krishna District.

...PETITIONER(S)

AND:

1. THE OFFICIAL RECEIVER & 2 OTHERS Krishna District Court
Premises, Machilipatnam.
2. P.V.V.Subbarao, S/o Venu Gopala Rao, Aged about 45 years,
Occ: Business,
R/o Bantumilli Village and Mandal, Krishna District.
[2nd Respondent was added as per orders in I.A.No. 1189/2009,dated
16-08-2011]
3. Muppiresetty Ganga Raju, S/o Anjaiah, Aged about 60 years, Occ:
Cultivation,
R/o Nageswara Rao, Bantumilli Mandal. Krishna District.

...RESPONDENTS

Counsel for the Petitioner(s): S R SANKU AND KAVITI MURALI
KRISHNA

Counsel for the Respondents: SAI GANGADHAR CHAMARTY

The Court made the following: ORDER

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CIVIL REVISION PETITION NO.817 of 2016

Between:

Singanapudi Eedukondlu

... Petitioner/Appellant/Creditor

Versus

The Official Receiver and two (02) others

...Respondents

* * * * *

DATE OF ORDER PRONOUNCED : 04.07.2023

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

1. Whether Reporters of Local Newspapers
may be allowed to see the Order? Yes/No
2. Whether the copy of Order may be
marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wish to see the
fair copy of the Order? Yes/No

JUSTICE B.V.L.N.CHAKRAVARTHI

*** HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**

+ CIVIL REVISION PETITION NO.817 of 2016

% 04.07.2023

Between:

Singanapudi Eedukondlu

... Petitioner/Creditor

Versus

The Official Receiver and two (02) others

...Respondents

**! Counsel for the Revision
petitioner**

: Sri S.R.Sanku

**^ Counsel for the Respondent
No.1**

: - - -

**^ Counsel for the Respondent
Nos.2 and 3**

: Sri Gangadhar Chamarty

< Gist:

> Head Note:

? Cases referred:

1. **Naicker vs. Engammal** reported in **AIR 1962 SC 1141.**

This Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CIVIL REVISION PETITION NO.817 OF 2016

ORDER:

Heard Sri S.D.Ramachandra Rao, learned counsel representing on behalf of Sri S.R.Sanku, learned counsel for the revision-petitioner and Sri Sai Gangadhar Chamarty, learned counsel for the respondent Nos.2 and 3.

2. This revision-petition is directed against the Common Judgment, dated 24.11.2015 in C.M.A.Nos.7, 8 and 9 of 2008 on the file of Rent Control Appellate Tribunal-cum-Principal Senior Civil Judge, Machilipatnam by one of the creditors.

3. The revision-petitioner would contend that the learned Official Receiver, Krishna at Machilipatnam sold the impugned property in auction on 18.09.2008 against the practice and rules and for a lesser price and therefore, the effected creditors filed Civil Miscellaneous Appeal Nos.7, 8 and 9 of 2008 under Section 68 of the Provincial Insolvency Act, 1920 (for brevity 'the Act').

4. The learned Senior Civil Judge, after considering the material available on record produced by both sides, 'Dismissed' the appeals holding that the appellants could not place any material before the learned Principal Senior Civil Judge to

establish that the Official Receiver, Machilipatnam had conducted the sale in a manner unknown to law or that there was collusion and that the sale of property was for an unconscionable and inadequate price.

5. In the light of the above context, the point that arises for consideration is: -

“Whether the Trial Court committed any irregularity in the Common Judgment, dated 24.11.2015 passed in Civil Miscellaneous Appeal Nos.7, 8 and 9 of 2008 on the file of Principal Senior Civil Judge’s Court, Machilipatnam?”

6. **P O I N T:** -

The learned Principal Senior Civil Judge in the Common Judgment, referred the Judgment of the Hon’ble Apex Court in **Naicker vs. Engammal** reported in **AIR 1962 SC 1141**, wherein the Hon’ble Supreme court held that “Court should not set-aside a sale unless there are good and judicial grounds for interfering with the discretion exercised by the Official Receiver.”

7. The relevant section of law under which the appellants/creditors preferred civil miscellaneous appeal before the learned Principal Senior Civil Judge, Machilipatnam is Section 68 of the Provincial Insolvency Act, 1920, which is extracted hereunder:

Section 68: Appeals to Court against receiver:

If the insolvent or any of the creditors or any other person is aggrieved by any act or decision of the receiver, he may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order as it thinks just:

Provided that no application under this section shall be entertained after the expiration of twenty-one days from the date of the act or decision complained of.

8. The above provision and the decision of the Hon'ble Supreme Court referred above makes it clear that the Court may confirm, reverse or modify the act or decision complained of the Receiver, only when there are good and judicial grounds.

9. The Judgment of the Principal Senior Civil Judge would disclose that the document i.e., Ex.R.1 produced by the appellants questioning the sale is, Valuation Certificate in Annexure-II issued by the Sub-Registrar, Bantumilli, dated 18.08.2015. Admittedly, the sale was conducted by the Official Receiver on 18.09.2008. So, the Valuation Certificate relied on by the appellants/creditors, of which, revision-petitioner is one among them, is regarding the valuation of the property in the year 2015.

10. In those circumstances, the learned Principal Senior Civil Judge, Machilipatnam made a finding that no material produced by the appellants to establish that sale conducted by the Official Receiver is void or for a lesser price. In such set of facts and circumstances, there are no grounds to interfere with the finding of the learned Principal Senior Civil Judge, Machilipatnam and the revision-petition is deserved to be dismissed.

11. Accordingly, Civil Revision Petition is 'Dismissed'. There shall be no order as to costs.

12. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

4th July, 2023.

DNB