

Post Master and ors. Vs. Voleti Satya Panivardhini and anr.

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Court : Andhra Pradesh

Decided On : Feb-22-2006

Reported in : AIR2006AP277; 2006(3)ALD674

Judge : C.Y. Somayajulu, J.

Appeal No. : CRP No. 5398 of 2003

Appellant : Post Master and ors.

Respondent : Voleti Satya Panivardhini and anr.

Advocate for Def. : Rama Rao Ghanta, Adv.

Advocate for Pet/Ap. : A. Raja Sekhar Reddy, Adv.

Disposition : Petition allowed

Judgement :

ORDER

C.Y. Somayajulu, J.

1. Respondents, who are the wife and son of Voleti Subba Rao, filed the suit against the revision petitioners for a declaration that they became the owners of and thereby acquired title to the Indira Vikas Patras purchased by Voleti Subba Rao during his lifetime, consequent on his death on 27-4-1993 and inasmuch as

those Indira Vikas Patras were lost, or are not traceable, and for a consequential injunction restraining the first revision petitioner (Post Master, Chirala Head Post Office) from allowing encashment of those Indira Vikas Patras, whose details are mentioned in the plaint schedule, pending decision relating to their title.

2. After contest by the revision petitioner the trial Court passed following decree in the suit.

(i) that the plaintiffs be and are hereby declared as owners to the Indira Vikas Patras as shown in the plaint schedule items 1 to 8;

(ii) that the first defendant be and is hereby directed not to allow the encashment of the schedule mentioned Indira Vikas Patras to anybody pending decision of the plaintiffs' title to the same;

After obtaining the said decree respondents filed E.P.No. 105 of 2000 for recovery of the amount covered by the Indira Vikas Patras, alleging that revision petitioners are not paying the amounts covered by the Indira Vikas Patras and got the movable property i.e., furniture in the office of the 1st revision petitioner, attached and after the executing Court gave a direction to the respondents to file sale papers for sale of the attached property, revision petitioners filed this revision questioning the order of the executing Court.

3. Heard learned Standing Counsel for the Central Government and the learned Counsel for the respondents at length.

4. The Indira Vikas Patras, admittedly, were purchased by Voleti Subba Rao, who is the husband of first respondent and father of the second respondent. The specific case of the respondents is that they became entitled to the Indira Vikas Patras as legal heirs to the estate of said Subba Rao. I have extracted above the decree passed by the trial Court, which only declares the title of the respondents to the Indira Vikas Patras. There is no direction in the decree to the respondents to pay the amount covered by the Indira Vikas Patras. It is well known that the executing Court has to execute the decree as it is, but cannot read something, which is not in the decree. It is well known that a declaratory decree is incapable of

execution, as it merely declares the rights of the decree holder and nothing more, and does not give any direction to the defendants (J.Drs.) either to do or to refrain from doing any act (See State of Madhya Pradesh v. Mangilal Sharma : (1998)ILLJ995SC). When there is no direction in the decree to pay the amount covered by the Indira Vikas Patras belonging to Voleti Subba Rao, question of respondents filing E.P. for recovery of the amounts covered thereby does not arise. Therefore, the Court below was in error in entertaining the E.P. and ordering steps for sale of the movable property belongs to the first revision petitioner.

5. Hence, the revision petition is allowed with costs and consequently E.P. No. 105 of 2000 in O.S. No. 44 of 1996 stands dismissed with costs. Amount deposited by the revision petitioners in pursuance of the interim order passed earlier can be withdrawn by them.

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