

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 10TH DAY OF JUNE, 2004

BEFORE

THE HON'BLE MR. JUSTICE V.G.SABHAHIT

C.R.P. NO. 212 OF 2004

C/W.

C.R.P. NO.213 OF 2004

BETWEEN

GOVERNMENT OF KARNATAKA
REPRESENTED BY THE EXECUTIVE ENGINEER
MINOR IRRIGATION DIVISION
5TH FLOOR, JAYANAGAR SHOPPING
COMPLEX, JAYANAGAR
BANGALORE-560 011

... PETITIONER
COMMON IN BOTH CASES

(BY SRI J. NAGARAJ, AGA)

AND :

P RAJAGOPAL REDDY
S/O SUBBARAMA REDDY
HINDU, AGED ABOUT 60 YEARS
NO.304/4, 23RD CROSS
6TH BLOCK, JAYANAGAR
BANGALORE-560 082

... RESPONDENT
COMMON IN BOTH CASES

(BY SRI H S DWARKANATH, ADV.,)

THESE C.R.P.S ARE FILED U/S 115 OF CPC
AGAINST THE ORDER DATED 29.10.2003 PASSED IN
EXECUTION NO. 29/2002 ON THE FILE OF THE CIVIL
JUDGE (SR.DN.), & JMFC, RAMANAGARAM, REJECTING
THE OBJECTIONS FILED BY THE GOVERNMENT/PETITIONER

HEREIN AND ORDERING THAT THE RESPONDENT HEREIN IS ENTITLED TO PROCEED WITH THE CASE AND TO TAKE NECESSARY STEPS TO RECOVER THE MONEY.

THESE CRP.S COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING :

ORDER

Heard. Admitted and the same are taken up for final hearing with the consent of the parties.

2. These two revisions arise out of an order passed by the Executing Court in Execution Nos.28/2002 and 29/2002 on the file of Civil Judge (Sr. Dn.) Ramanagaram, wherein the ~~petitions~~^{objections} filed by the petitioners' herein have been overruled by holding that they are not tenable by an order dated 29.10.2003.

3. It is clear from the perusal of the order passed by the Trial Court that the order suffers from error of jurisdiction, In as much as the objections filed to the report of the Commissioner appointed in the Execution proceedings have not at all been considered and what is stated is that no objection had been

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filed to the report of the Commissioner, when the Commissioner had been appointed in the suit and the matters are ^{pre} ~~decreta~~ ^L ~~l~~ ² ~~2~~ matters. On going through the objections filed to the Commissioner's report in the Execution Petition, it is clear that the executing Court has failed to consider the objections filed to the Commissioner's report and therefore, the order is without jurisdiction and it cannot be sustained and the same is liable to be set aside and accordingly, I pass the following order:

The Revision Petitions are allowed and the order dated 29.10.2003 in Execution Nos.28/2 and 29/2 are set aside and the matter is remitted back to the Trial Court for fresh consideration of the ^{objections} ~~petitions~~ filed by the petitioner ~~State~~ to the report of the Commissioner appointed in Execution proceedings.

Sd/-
Judge

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