

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

CIVIL REVISION PETITION No.3638 of 2014

ORDER:

This Civil Revision Petition is filed challenging the inaction of the Junior Civil Judge, Mydukuru in not disposing O.S.No.3 of 2009 filed by petitioner, which is pending before the said Court.

2. By order dt.19-02-2015, this Court sought for remarks from the I Addl. Judicial Magistrate of First Class, Kadapa, who is holding Full Additional Charge of the Court of Junior Civil Judge, Mydukuru. In his report, he stated :

"I respectfully submit that the suit in O.S.No.3 of 2009 was filed by one T.Jaya Prakash against B.Chennaiah and B.Dhannamma for grant of prohibitory permanent injunction restraining the defendants from interfering with the possession of the plaintiff over the suit schedule property. The suit was filed on 06-01-2009 and after summons were served on the defendants, the defendants filed written statement on 30-03-2009. Since then the then Presiding Officer has not framed the issues till }28-03-2014. In the docket of the suit there are not reasons assigned for non-framing of issues till 28-03-2014.

After 28-03-2014 the matter was posted for trial to 22-04-2014. Thereafter, the then Presiding Officer by name Sri T.Venkateswarlu was transferred and another Presiding Officer by name Sri N.Josesph Deva Veera was posted to Junior Civil Judge Court, Mydukur. Since the date of his joining Sri N.Joseph Deva Veera has been under medical leave till date. Then as per the

orders of Hon'ble High Court of AP, the Principal Junior Civil Judge, Proddatur by name Sri N.Vijaya Babu was placed full additional charge of Junior Civil Judge Court, Mydukur from 16-04-2014 to 22-09-2014. Thereafter, the IV Additional Junior Civil Judge by name T.Kesava i.e., me was placed as Full Additional Charge of Hon'ble Junior Civil Judge Court, Mydukur from 23-09-2014 till 31-12-2014. Thereafter, Special Mobile Court Magistrate, Kadapa was transferred to IV Additional Junior Civil Judge Court, Kadapa. As I was transferred to I Additional Judicial Magistrate of I Class, Kadapa, the IV Additional Junior Civil Judge Court, Kadapa took the charge of Junior Civil Judge Court, Mydukur as per arrangement of High Court of A.P. Again as IV Additional Junior Civil Judge, Kadapa by name Smt.MR. Bharati was nominated to undergo training in A.P. Judicial Academy from 08-02-2015 I was placed In-charge in the IV Addl. Junior Civil Judge, Kadapa. Therefore, being full additional charge of IV Additional Junior Civil Judge Court, Kadapa I took the charge of Junior Civil Judge, Mydukr in place of Smt.MS. Bharati.

It is further humbly submitted that after framing issues, the matter has under gone several adjournments and on the request of the plaintiff, the matter was adjourned for several times for trial. Upon perusal of the record I do not find any chief examination affidavit filed by the plaintiff and even there is no docket order indicating that the plaintiff filed his affidavit in lieu of his chief-examination. Therefore, the plaintiff has not filed any affidavit in lieu of his chief-examination under Order 18 Rule 4 CPC. Since from April, 2014 there is no regular Presiding Officer to the Junior Civil Judge Court, Mydukur and the In-charge Officer has been conducting Court at Mydukur only once for a week. In 3 to 4 occasions at the request of the plaintiff alone the matter was adjourned for trial. Therefore, as the Presiding Officer is under medical leave and the in-charge officers are conducting the proceedings once in a week, the matter could not be taken up for trial and for disposal. Further the parties have not evinced interest for commencing the trial. Therefore, the matter was

adjourned till date after framing issues without commencing the trial. These are the reasons for the delay in proceedings with the case.”

3. Having regard to the above reasons assigned, it is clear that there are valid reasons for delay in proceeding with the case. However, in view of the anxiety of petitioner for early disposal of the case, the FAC Junior Civil Judge, Mydukur (who is I Addl. Judicial Magistrate of First Class, Kadapa) shall endeavour to commence trial by directing the petitioner to file affidavit in lieu of chief-examination, if the same has not been filed, on the next date of hearing, and conclude the trial as expeditiously as possible.

4. The Civil Revision Petition is disposed of with the above directions. No costs.

5. As a sequel, all miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-03-2015

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