

HONOURABLE SRI JUSTICE S.RAVI KUMAR

C.R.P.No.3045 of 2002

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ORDER:

This revision is preferred against the orders dated 11.04.2002 in I.A.No.1083 of 2000 in O.S.No.316 of 2000 on the file of IV Additional Junior Civil Judge, Rajahmundry.

The revision petitioners herein are defendants 1, 2, 4 and 5 who filed a petition to set aside the *ex parte* decree under Order 9 Rule 13 CPC along with delay condonation petition under Section 5 of Limitation Act and as the said petitions are pending, they sought stay of execution proceedings which are enunciated in pursuance of the decree in O.S.No.316 of 2000 in EP.No.250 of 2000 for delivery of property. The trial Court, after hearing both sides and after considering the material on record, dismissed the application alleging that delivery was already affected. Aggrieved by the said order, the present revision is preferred.

Heard Advocate for revision petitioners.

I have perused the material papers filed along with the revision petition.

As seen from the record, the petitioners filed I.A.No.1083 of 2000 under Section 5 of the Limitation Act to condone the delay in filing petition to set aside the *ex parte* decree and the same is pending before the Court below. As seen from the record, the petitioners have approached the Court below to stay the execution proceedings after delivery was affected and the Court below dismissed the stay petition on the ground that it has become infructuous. I do not find any illegality or irregularity in the order of the Court below because once the property is delivered to the decree holder through Court, no purpose would be served by ordering stay of execution proceedings and the Court below was right in dismissing the application. If revision petitioners succeed in the main suit, their remedy is to invoke Section 144 C.P.C.

For these reasons, I do not find any material irregularity or illegality in the order of the trial Court to be interfered by this Court by exercising the revisional powers.

Therefore, the revision is dismissed as devoid of merits. No costs. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE S.RAVI KUMAR

Dt.15th April, 2015

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