

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**CIVIL REVISION PETITION Nos.257 and 348 of 2015**

**COMMON ORDER:**

These two Civil Revision Petitions are being disposed of by this common order, as they arise out of the same suit, O.S. No.424 of 2013 on the file of the IV Additional Junior Civil Judge, Rajahmundry, East Godavari District.

2. Petitioner is the defendant in the said suit. The said suit was filed by the respondent herein seeking eviction of the petitioner. The petitioner was set *ex parte* on 28.03.2014 and an *ex parte* decree was passed on 08.05.2014. After passing *ex parte* decree, the petitioner filed two applications, I.A. No.851 of 2014 seeking condonation of delay of 122 days in filing the application to set aside the *ex parte* decree dated 08.05.2014 passed in O.S. No.424 of 2014 and E.A. No.240 of 2014 seeking stay of all further proceedings in E.P. No.29 of 2014 in O.S. No.424 of 2013. However, the said two applications were dismissed by separate orders by the learned IV Additional Junior Civil Judge, Rajahmundry on 30.12.2014. C.R.P. No.348 of 2015 is filed against the order in I.A. No.851 of 2014, whereas C.R.P. No.257 of 2015 is filed against the order in E.A. No.240 of 2014.

3. Now it is not disputed that the property is delivered pursuant to the order in E.P. No.29 of 2014 in O.S. No.424 of 2013 and, thus, C.R.P. No.257 of 2015 has become infructuous. Accordingly, the same is liable to be dismissed.

4. Coming to C.R.P. No.348 of 2015, it arises out of an order in I.A. No.851 of 2014 seeking condonation of delay. The petitioner filed the said application stating that he was not served with suit

summons. He states that he was not in talking terms with his wife during the period from February to April, 2015, and he came to know about the *ex parte* decree only when he received a notice in E.P. No.29 of 2014. He stated that his wife filed O.S. No.203 of 2014 on 25.09.2014 seeking declaration of title in respect of the same property covered by O.S. No.424 of 2014.

5. A counter was filed by the respondent herein stating that the reason shown by the petitioner that he was not in talking terms with his wife cannot be believed, as his wife filed O.S. No.203 of 2014 on the file of the I Additional District Judge, Rajahmundry, claiming title over the schedule property in order to stall the execution of the decree in O.S. No.424 of 2014.

6. The trial court observed that the suit summons was served on the wife of the petitioner. Hence, the trial court held that the service of suit summons on his wife is held sufficient and set the petitioner *ex parte* on 28.03.2014. In view of the filing of the subsequent suit O.S. No.203 of 2014 by the wife of the petitioner, the trial court opined that the petitioner is having knowledge regarding the disputes and the reason shown by the petitioner was not convincing. Accordingly, the trial court dismissed the said application.

7. It is clear from the material on record that the suit summons was served to the same address where the petitioner and his wife have been residing. The wife received the suit summons, but the petitioner states that he was not having talking terms with his wife, though both of them have been residing in the same house. The said explanation is not a plausible explanation and the trial court has rightly dismissed the application by order dated 30.12.2014. Moreover, the wife filed a separate suit, which is pending on the file of the learned I Additional District Judge, East Godavari at Rajahmundry. The suit property is already delivered in favour of the respondent pursuant to

the order in E.P. No.29 of 2014. Taking all these factors into consideration, C.R.P. No.348 of 2015 is also liable to be dismissed.

8. Accordingly, both the Civil Revision Petitions are dismissed. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any pending in these civil revision petitions, shall stand closed.

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***A.RAMALINGESWARA RAO, J***

Date: 29.12.2015

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