

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Civil Revision Petition No.2849 of 2015

Dated 24th July, 2015

Between:

Bommidi Yanadi

...Petitioner

And

Bommidi Jaala Chandrudu

...Respondent

Counsel for the petitioner: Sri V.V.L.N.Sarma

Counsel for the respondents: ----

The Court made the following:

ORDER:

This civil revision petition arises out of order, dated 11.06.2015, in I.A.No.304 of 2013, in unnumbered C.M.A., on the file of the learned Senior Civil Judge, Repalle.

The petitioner filed O.S.No.105 of 2011 in the Court of the learned Principal Junior Civil Judge, Repalle for specific performance of an agreement of sale. Pending the suit, the petitioner has filed I.A.No.288 of 2011 for temporary injunction restraining the respondent from interfering with his possession of the suit schedule property. The said IA was dismissed by the lower Court by order, dated 28.02.2011. Questioning the said order, the petitioner filed CMA before the lower appellate Court with a delay of 28 days. For condonation of the said delay, the petitioner filed I.A.No.304 of 2013. The lower appellate Court by its order under revision has dismissed this application observing that though the petitioner has filed the CMA two years back, he has not chosen to get the same disposed of and that as the Court of

the learned Principal Junior Civil Judge, Repalle is not having more than 400 cases on its file, in all probability, the suit is ripe for trial and therefore there is no justification for entertaining the CMA by condoning the delay.

Even though an application for condonation of delay deserves to be considered on its own merits, the reason put forth by the lower appellate Court for not entertaining the said application cannot be considered as altogether irrelevant. The CMA was filed against an interlocutory order pending the suit. The purpose for which the petitioner has filed the CMA is to secure an order of interim injunction. For more than two years, the petitioner could not get the said purpose served. Therefore, instead of entertaining the CMA, the lower appellate Court has felt it appropriate that it would be better if the petitioner gets the suit itself disposed of. As the suit is of the year 2011, it would be more appropriate if the same is disposed of, instead of allowing the parties to litigate over an interlocutory application. Accordingly, while declining to interfere with the order of the lower appellate Court, the trial Court is directed to dispose of O.S.No.105 of 2011 within four months from the date of receipt of a copy of this order.

Subject to the above observations and direction, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P.No.3803 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

24th July, 2015
VGB