

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION NO. 435 OF 2015

ORDER:

None appears for respondents.

The petitioners herein filed I.A.No. 799 of 2014 in O.S.No. 574 of 2011, seeking stay of execution of E.P.No. 334 of 2014 pending on the file of VII Senior Civil Judge, Ranga Reddy District , in view of transmission of decree dated 27.2.2013.

The petitioners are the defendants in the said Suit. The Suit was filed for recovery of money. It appears that the first respondent herein obtained an ex-parte decree on 27.2.2013 against the petitioners and the respondents 2 to 5. The said decree was transferred for execution from the Court of IV Senior Civil Judge, City Civil Court to the Court of learned VII Senior Civil Judge, Ranga Reddy District at L.B.Nagar. When the petitioners filed I.A.No. 799 of 2014, seeking stay of execution, the said application was dismissed by a docket order dated 5.12.2014, which reads as under:

“Counter filed. No representation for petitioner/D1 and D4. The only import and purport of the relief sought for by the petitioner/D1 and D4 in this interlocutory application is to stay the execution of EP. 33/14 pending on the file of the leaned VII Senior Civil Judge, R.R. District. Consequent upon the transmission of the decree.

In this context it has to be stated here that the provisions Under Order 21 Rule 26 CPC contemplate to a particular situation viz., the court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for reasonable time, to enable the judgment debtor to apply to the court by which the decree was passed, or to any court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such court of first instance or Appellate Court if execution had been issued thereby, or if application for execution had been made thereto. As such the provision Under Order 21 Rule 26 CPC contemplate filing of the presence application to a transfer Court and not to transferee Court.

Thus, in view of the express legal provision the present petition lacks merits and it is accordingly dismissed as not maintainable.”

A perusal of the above order makes it clear that the order is perfectly valid and it does not call for any interference.

In the circumstances, the Civil Revision Petition is dismissed with liberty to the petitioners to take appropriate proceedings in a competent Court of law, if they are so advised. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

A. RAMALINGESWARA RAO, J

DATE: 2.11.2015

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