

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No. 2347 of 2013

ORDER:

_____ This revision petition is filed challenging the order dated 13.08.2012 in I.A.No.435 of 2011 in I.A.No.373 of 2011 in O.S.No.116 of 2010 on the file of the Senior Civil Judge, Gooty.

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2. _____ For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the trial Court.

3. _____ The facts leading to filing of the revision petition are, briefly, as follows:

_____ Respondent No.1 herein filed O.S.No.116 of 2010 on the file of the Court of the Senior Civil Judge, Gooty against the petitioners herein and others for partition of the suit schedule property. Pending suit, respondent No.1 filed I.A.No.373 of 2011 in O.S.No.116 of 2010 to direct the petitioners herein and others to deposit the rents pending disposal of the suit. For one reason or other, the petitioners herein could not file the counter in I.A.No.373 of 2011. The trial Court having no other option, allowed I.A.No.373 of 2011 on 18.08.2011. The petitioners herein filed I.A.No.435 of 2011 in I.A.No.373 of 2011 in O.S.No.116 of 2010 seeking to set aside the order dated 18.08.2011. In the said petition, on 07.08.2012, the trial Court passed the following order:

_____ "In the result, the petition is allowed, directing the petitioner to pay a sum of Rs.300/- (three hundred) payable to the respondent, and file counter on or before 13.8.2012, failing which, the petition shall stand dismissed."

_____ For one reason or other, the petitioners have not complied the order of the trial Court dated 07.08.2012. Hence, the present revision petition.

4. Heard the learned counsel for both the parties and perused the material available on record.

5. The point that arises for consideration in this revision petition is:

Whether the trial Court committed any error in dismissing the petition or not?

POINT:

6. Learned counsel for both the parties in one voice submitted that respondent No.1/plaintiff and the petitioners/defendant Nos.1 and 2 are belongs to one family. As observed earlier, respondent No.1/plaintiff filed the suit for partition of the plaint schedule property. For one reason or other, the petitioners herein, who are defendant Nos.1 and 2, could not deposit the amount as directed by the trial Court. If the petition is dismissed, it may not be possible for the petitioners to ventilate their legitimate grievances. While disposing of the petitions of this nature, the approach of the Court shall be pragmatic but not pedantic. The Court shall not insist technicalities at the cost of the legal rights of the parties to the proceedings. Even if the petition is allowed, the same may not cause any prejudice to the respondents.

7. Having regard to the facts and circumstances of the case, I am of the considered view that it is a fit case to set aside the order dated 13.08.2012. Consequently I.A.No.435 of 2011 in I.A.No.373 of 2011 in O.S.No.116 of 2010 is allowed on a condition that the petitioners herein shall pay an amount of Rs.2,000/- (Two thousand rupees only) to respondent No.1/plaintiff and file the payment receipt before the trial Court. The trial Court is hereby directed to dispose of the suit as early as possible.

8. With the above direction, the Civil Revision Petition is allowed. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

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T.SUNIL CHOWDARY, J

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Date: 27.08.2015

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