

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

Civil Revision Petition No.1483 of 2015

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Dated 17th April, 2015

Between:

B.Manik Prabhu and another

...Petitioners

And

B.R.Jithender and another

...Respondents

Counsel for the petitioners: Sri C.Raghu

Counsel for the respondents: ---

The Court made the following:

ORDER:

This civil revision petition arises out of order, dated 25.03.2015, in I.A.No.32 of 2015 in I.A.No.890 of 2014 in O.S.No.596 of 2011, on the file of the learned II Additional Junior Civil Judge, Ranga Reddy District at L.B.Nagar.

Respondent No.1 has filed the above-mentioned suit for mandatory injunction against the petitioners and respondent No.2. He has filed I.A.No.890 of 2014 (number of the IA is wrongly shown as I.A.No.89 of 2014 in the order under revision)

under order XXVI Rule 9 CPC for appointment of an Advocate Commissioner to note down the set backs and the stage of construction of the suit schedule property. By order, dated 15.12.2014, the lower Court has allowed the said application by appointing an Advocate Commissioner. However, as respondent No.1 failed to pay the process fee even within the extended time, the lower Court has dismissed I.A.No.890 of 2014, by order, dated 19.01.2015.

Respondent No.1 thereafter filed I.A.No.32 of 2015 for setting aside the order, dated 19.01.2015 and restoration of I.A.No.890 of 2014. After contest by the petitioners and respondent No.2, the lower Court has allowed the said application on payment of costs of Rs.200/- by respondent No.1 to the petitioners and respondent No.2. Feeling aggrieved by the said order, the petitioners have filed the present civil revision petition.

A perusal of the order of the lower Court no doubt shows that the lower Court has recorded a finding that respondent No.1 is not diligent in pursuing his cause and that he has also failed to show sufficient cause for non deposit of the process in time. The lower Court has, however, made a liberal approach with a view to decide the case on merits rather than allowing the same to go on default. As the lower Court has exercised its discretion vested in it, I do not feel persuaded to interfere with such discretion exercised by it.

For the above-mentioned reasons, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, CRP.MP.No.2000 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

17th April, 2015

VGB