

THE HON'BLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION No.2922 of 2015

ORDER:

The respondent in A.S.No.16 of 2012 on the file of the Senior Civil Judge, Chirala, Prakasham District is the petitioner in the present revision.

Heard Sri N.A. Ramachandra Murthy, learned counsel for the petitioner and Sri A. Sameer Kumar, learned counsel for the respondents.

The petitioner herein instituted O.S.No.341 of 2004 on the file of the Court of the Prl. Junior Civil Judge, Chirala, Prakasham District against the respondents herein for specific performance of agreement of sale. The Prl. Junior Civil Judge, Chirala, Prakasham district decreed the said suit on 17-04-2012. As against the said decree the 2nd respondent herein preferred A.S.No.16 of 2012 on the file of the Senior Civil Judge, Chirala. In the said appeal suit he filed I.A.No.921 of 2012 under the provisions of Order 41 Rule 5 (1) and Section 151 of Code of Civil Procedure, seeking stay of all further proceedings pursuant to the decree in O.S.No.341 of 2004. The plaintiff/petitioner herein filed a counter, resisting the said application. The learned Senior Civil Judge, Chirala by way of an order, dated 08-07-2015 allowed the said application, granting stay of all further Execution Proceedings pursuant to the judgment and decree in O.S.No.341 of 2004.

Calling in question the validity and legal sustainability of the said order passed by the learned Senior Civil Judge, Chirala, the present revision has been filed.

It is contended by the learned counsel for the petitioner herein that the order passed by the learned Senior Civil Judge, Chirala is erroneous, contrary to law and is opposed to the very spirit and object of the provisions of Order 41 Rule 5 (1) of Code of Civil Procedure. It is further submitted by the learned counsel for the petitioner that the order passed by the Senior Civil Judge is a non-speaking order and is completely bereft of any valid reasons. It is further submitted by the learned counsel that in view of the categorical reasons assigned by the trial Court, there is absolutely no justification on the part of the learned

Senior Civil Judge, Chirala in granting stay.

The material available before this Court vividly discloses that O.S.No.341 of 2004 filed by the petitioner herein was decreed by the Court of learned Prl. Junior Civil Judge, Chirala on 17-04-2012 and as against the said decree the 2nd respondent herein preferred A.S.No.16 of 2012 on the file of the Court of the Prl. Senior Civil Judge, Chirala. Along with the said appeal the 2nd respondent also filed the present I.A.No.921 of 2012, seeking stay of all further proceedings pursuant to the judgment and decree rendered by the trial Court. The learned Senior Civil Judge, Chirala by way of impugned order stayed the further proceedings pursuant to the said decree granted by the learned Prl. Junior Civil Judge, Chirala till the disposal of the appeal.

A perusal of the order passed by the learned Senior Civil Judge, Chirala candidly reveals that the learned Senior Civil Judge, Chirala exercised the discretion and passed the impugned order taking into consideration the facts and circumstances of the case.

It is settled and well-established proposition of law that unless the orders impugned suffer from perversity and jurisdictional error, the interference of this Court is impermissible and this Court does not find the same in the impugned order.

In view of the reasons recorded by the Court below in the impugned order, this Court does not find any justification to meddle with the discretion exercised by the Court below.

For the aforesaid reasons, the Civil Revision Petition is dismissed. However, the Court of Senior Civil Judge, Chirala shall make an endeavor to dispose of the appeal, as expeditiously as possible. There shall be no order as to costs.

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

A.V. SESA SAI, J

October 01, 2015

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