

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.2242 of 2015

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondent.

2. The plaintiffs in O.S.No.1448 of 2012 on the file of the Court of VIII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar (for short, trial Court) are the petitioners herein, who filed the said suit seeking declaration and recovery of possession of the suit schedule property. An *ex parte* decree was passed on 03.07.2013. When the respondent herein filed I.A.No.13 of 2014 for setting aside the *ex parte* decree, the trial Court, by its order dated 28.10.2014, allowed the said application. Challenging the same, the present Civil Revision Petition is filed.

3. The respondent, in the affidavit filed in support of his application for setting aside the *ex parte* decree, stated that no notice or summons were served on him. A counter was filed by the petitioners herein stating that the respondent is a land grabber and he is well aware of filing of the suit. It is also stated that the respondent waited till filing of E.P.No.125 of 2013 even though summons were served on him by affixing on the door on 23.11.2012, as could be seen from the report of the Bailiff of even date, the petition for setting aside the *ex parte* decree was filed without filing an application for condonation of delay. However, the trial Court allowed the said application, by its order dated 28.10.2014, with the following observations.

“3. Heard counsel for petitioner and respondents. Admittedly the petitioner has not received the notice. After considering the contentions of both the sides and material on record, I am of the view one opportunity can be given to the petitioner to contest the suit. As the substantial rights are involved in the suit, I am of the view the petitioner can be permitted to contest the suit subject to some stringent condition.”

4. The learned counsel for the petitioner submits that the observation made by the trial Court that the respondent herein has not received the notice is not correct, in view of the report of the Bailiff dated 23.11.2012. Even after passing the impugned order also, the respondent did not pay the costs of Rs.3,000/- to the petitioners herein in spite of a specific direction, but deposited the said amount in the District Legal Services Authority, Ranga Reddy District.

5. In view of the nature of the order, this Court is not inclined to entertain the Civil Revision Petition and the same is accordingly dismissed. If the costs were deposited in the District Legal Services Authority, Ranga Reddy District, the petitioners are permitted to withdraw the same. Since the suit is of the year 2012, the trial Court shall dispose of the same, as expeditiously as possible, but not later than one year from the date of receipt of a copy of this order. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 26.11.2015

TJMR