

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.1222 of 2015

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JUDGMENT:

This Civil Revision Petition under Article 227 of the Constitution of India is filed by the petitioners/defendants in O.S.No.119 of 2010 on the file of the learned Senior Civil Judge, Adilabad.

I have heard the submissions of the learned counsel for the petitioners and I have perused the material on record.

The facts of the matter are as follows:

The sole respondent/plaintiff ('the respondent' for brevity) had brought the aforementioned suit against the petitioners herein for declaration of title and recovery of possession in respect of the plots bearing Nos.21, 22 and 24 situated in Sy.No.24/A of Dasnapur village within the limits of Grampanchayat, Mavala mandal, Adilabad, which are more fully described in the schedule annexed to the plaint in the said suit.

In the said suit the petitioners had remained *ex parte* and, therefore, the suit was decreed as *ex parte* in favour of the respondent herein. Subsequently, the petitioners herein, who are the defendants in the said suit, had filed an Interlocutory Application in C.F.R.No.1241 of 2012 before the trial Court requesting to set aside the *ex parte* decree.

The grievance of the petitioners in this present Civil Revision Petition is that the said application is neither returned nor registered by the trial Court and that in the meanwhile Execution Petition in E.P.No.7 of 2013 was filed and execution proceedings are being proceeded against the petitioners/judgment debtors.

The learned counsel for the petitioners, therefore, submits that a direction be given to the trial Court to either number the above said Interlocutory Application in C.F.R.No.1241 of 2012, if it is otherwise in order, or in the alternative return the same to the petitioners for complying with the objections, if any, of the office of the trial Court and also further permit the petitioners to file an Interlocutory Application for condonation of delay in seeking to set aside the *ex parte* decree, if necessary, and direct the trial Court to entertain the said application also and dispose of the same in the first instance and as expeditiously as possible in view of the threat of execution proceedings in the above said Execution Petition.

I have bestowed my attention to the facts and the submissions. The learned counsel submits that the trial Court ought to have either numbered the above said Interlocutory Application in C.F.R.No.1241 of 2012, if it is otherwise in order, or returned the same to the petitioners by giving an opportunity to them to re-present the same after complying with the objections, if any, raised by the office of the trial Court. He would further submit that the petitioners are also required to file an Interlocutory Application for condonation of the delay in seeking to set aside the *ex parte* decree in the aforementioned suit and that, therefore an opportunity may be given to the petitioners to file such an application before the trial Court as desired by them.

In view of the facts and the submissions made by the learned counsel for the petitioners this Court deems it appropriate to give necessary directions to the trial Court as such a course meets the ends of justice.

In the result, the Civil Revision Petition is allowed at the admission stage directing the trial Court to either number the above said Interlocutory Application in C.F.R.No.1241 of 2012 (or 1246 of 2012 as the case may be), if it is otherwise in order, or return the same to the petitioners by giving an opportunity to them to re-present the same after complying with the objections, if any, raised by the office of the trial Court. It is made clear that the petitioners are at liberty to file an Interlocutory Application for condonation of the delay in seeking to set aside the *ex parte* decree in the aforementioned suit, if necessary, and, if they so desired. The trial Court shall consider the application for the condonation of delay, if any filed and registered, in the first instance and

dispose of the same on merits and in accordance with the procedure established by law as expeditiously as possible, preferably, within a period of 15 days from the date of service of notices on the respondent/plaintiff and the filing of counter, if any, in the said application within the said time. The Court below may also take up the application filed for grant of stay said to have been filed by the petitioners herein in the Execution Petition and dispose of the same on merits and in accordance with the procedure established by law, as expeditiously as possible, or simultaneously with the application for condonation of delay. There shall be no order as to costs.

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

M. SEETHARAMA MURTI, J

May 01, 2015

Note: Furnish C.C. in

three days. B/o.Pn

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