

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

CIVIL REVISION PETITION No.2779 OF 2015

ORDER:

Heard learned counsel for the petitioner and learned counsel for the respondents.

The order impugned is the one vacating the stay granted in favour of the petitioner pending his appeal.

The brief facts necessary may be noted. The petitioner filed a claim petition in E.A.No.218 of 2010 in E.A.No.646 of 2008 in E.P.No.260 of 2005 in O.S.No.757 of 2002 on the file of the Principal Junior Civil Judge, Tirupati. The said application was dismissed on 28.03.2013. Aggrieved thereby, the petitioner preferred A.S.No.52 of 2013 which is pending before the lower Appellate Court, namely, V Additional District Judge, Tirupati. Pending the said appeal, initially the petitioner was granted stay, but under the impugned order, the same is vacated. The petitioner filed this revision challenging the said order.

While considering the revision on 22.07.2015, notice before admission was issued and stay was granted for a limited period.

It is evident that when the claim petition of the petitioner is pending adjudication in appeal before the lower appellate Court, execution of the decree obviously cannot go on. Hence, in my view, pending the appeal, it is neither just nor permissible to vacate the stay so as to permit the execution proceedings go on. So far as the merits of the claim petition are concerned, they are subject matter of the appeal in A.S.No.52 of 2013 and both the learned counsel expressed

that they are ready and would cooperate with the lower appellate Court for early disposal of the appeal.

In view of the same, the Civil Revision Petition is disposed of directing the lower appellate Court to fix an early date and decide A.S.No.52 of 2013 on merits expeditiously, preferably before December, 2015 and pending consideration of the said appeal, the interim stay already granted by this Court on 22.07.2015 shall continue. There shall be no order as to costs.

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

VILAS V.AFZULPURKAR, J

30.10.2015

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