

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

C.R.P.No.5252 of 2012

ORDER:

This civil revision petition is filed challenging the order, dated 31.05.2012, passed in I.A.No.148 of 2008 in O.S.No.442 of 2004 by the I Additional Senior Civil Judge, Nellore, dismissing the application filed by the petitioner/defendant to cancel or revoke the decree and judgment passed in O.S.No.442 of 2004 dated 19.11.2007 obtained by the respondent/plaintiff by playing fraud and misrepresentation.

Heard learned counsel for the petitioner/defendant and learned counsel for the respondent/plaintiff.

The petitioner herein is the defendant in the main suit. The respondent/plaintiff filed the suit in O.S.No.442 of 2004 on the file of the I Additional Senior Civil Judge, Nellore, for specific performance of the sale agreement to execute registered sale deed in his favour after receiving balance of sale consideration. The said suit was decreed on 19.11.2007 directing the petitioner/defendant to execute a registered sale deed in favour of the plaintiff. Aggrieved by the same, the petitioner/defendant filed the present application I.A.No.148 of 2008 seeking cancellation of the decree on the ground that the same was obtained by playing fraud and misrepresentation. The learned I Additional Senior Civil Judge, after hearing the parties and after considering the facts and circumstances of the case, dismissed the said application holding that as the judgment and decree in the suit is a reasoned judgment and there is no question of any misleading or misrepresentation on the part of the plaintiff, this application is not tenable.

Sri V. Rajagopal Reddy, learned counsel for the petitioner contends that while decreeing the suit certain aspects were not brought to the notice of the trial Court and the respondent has played fraud and obtained the decree and hence the petitioner prays to set aside the decree and judgment in the suit.

On the other hand Sri G. Venkateswarlu, learned counsel appearing for the respondent submits that the petitioner has filed an appeal before the lower Appellate Court with an application to condone the delay in filing the appeal and the same was

dismissed by the lower appellate Court. Aggrieved by the same, the petitioner carried the matter before the Supreme Court by filing Special Leave Petition. The Supreme Court ordered notice in Special Leave Petition and the same is still pending and as such, the present revision petition filed by suppressing the facts, is not maintainable.

Since the petition to condone the delay in filing the appeal is dismissed and the Special Leave Petition filed by the petitioner/defendant is pending before the Hon'ble Supreme Court, the petitioner can raise all the grounds raised herein. In case the Special Leave Petition is allowed, it is open for the petitioner to raise all the objections in the appeal and the same shall be considered by the lower appellate Court in accordance with law.

With the above observations, the Civil Revision Petition is disposed of. No order as to costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

A. RAJASHEKER REDDY, J.

27th February, 2015

Js.