

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF
ANDHARA PRADESH

C.R.P.No.3712 of 2014

Between:

A.Shankaraiah and others

.....Petitioner

and

A.Srinivas Rao

.....Respondent

Date of Judgment pronounced : 17-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked :
Yes/No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.3712 of 2014

ORDER:

Heard Sri Seshadri Goalla, learned counsel for the

petitioners and Sri K Venumadhav, learned counsel for the respondent.

2. This Revision Petition is filed challenging the order dt.12-09-2014 in E.P.No.95 of 2013 in O.S.No.1307 of 2006 of the Principal Senior Civil Judge, Ranga Reddy District.

3. Petitioners herein are J.Drs. in the said suit filed by the respondent against them for specific performance of agreement of sale dt.02-02-2004 allegedly executed by the petitioners in his favour. The said suit was decreed on 31-10-2008 and the petitioners were directed to execute registered sale deed in favour of the respondent within 60 days. The petitioners did not do so. They filed I.A.No.266 of 2014 under Section 5 of the Limitation Act, 1963 to condone delay of 1790 days in filing petition to set aside the *ex parte* decree.

4. In the meantime, the respondent filed E.P.No.95 of 2013 under Order 21 Rule 34 CPC to execute registered sale deed in his favour since the petitioner has failed to execute sale deed as per decree dt.31-10-2008 in O.S.No.1307 of 2006.

5. This application was opposed by the petitioners contending that the decree sought to be executed is dt.31-10-2008 and there was a delay of 1463 days in the decree holder seeking execution thereof.

They alleged that the time granted for execution of registered sale deed is only 60 days and so, the decree holder is not entitled to any relief.

6. By order dt.12-09-2014, the Court below rejected the contention of the petitioners that there is a delay in filing the execution petition and held that 60 days period referred to by the petitioners was the period within which the petitioners had to execute the said registered sale deed and since they had failed to do so within time, the respondent decree holder was entitled to file the E.P.

7. Challenging the same, this Revision Petition is filed.

8. Learned counsel for the petitioners contended that when application to condone delay in seeking to set aside the *ex parte* decree and to set aside the *ex parte* decree were pending before the Court below, the Court below ought to have first decided them instead of deciding E.P.No.95 of 2013 and directing the petitioners to execute the decree in the suit.

9. Learned counsel for the respondent on the other hand brought to my notice that on 01-06-2015, I.A.No.266 of 2014 in O.S.No.1307 of 2006, filed by the petitioners to condone delay of 1790 days in filing the petition to set aside the *ex parte* decree, had been dismissed. As of now this order is not challenged.

10. In view of the dismissal of I.A.No.266 of 2014 and the absence of any challenge thereto, I am of the opinion that there is no need to stay the execution of the decree in O.S.No.1307 of 2006. No precedent has been cited before this Court by the learned counsel for the petitioner in support of his plea that pending an application to set side the *ex parte* decree, there is a bar to direct execution of the decree.

11. Also the period for execution of a decree for specific performance, according to Article 136 of the Limitation Act, 1963, is 12 years from the date when the decree is passed. The contention of the learned counsel for the petitioners that the E.P. should have been filed immediately after expiry of the 60 days as directed in the decree cannot be accepted in view of the Article 136 of the Limitation Act, 1963.

12. Therefore, I am of the opinion that the Court below was right in holding that the E.P. is not barred by time, in entertaining it, and directing filing of a draft sale deed by 10-10-2014.

13. In this view of the matter, I do not find any merit in the Civil Revision Petition and the same is accordingly dismissed. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 17-08-2015

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