

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

CIVIL REVISION PETITION NO.263 OF 2016

ORDER:

This revision is preferred questioning order dated 04.01.2016 wherein the Court below passed the following order in I.A.No.1220 of 2015 in O.S.No.361 of 2015.

"Notice of Respondent return with endorsement that Respondent shifted his house. Hence issue fresh notice to Respondent to correct address through Court and R.P. on process. Call on 04.02.2016."

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Learned Advocate for revision petitioners submitted that at the address given in the plaint, the respondent received legal notice and a reply was given through Advocate disputing the legal notice averments, when the notice was returned stating that the respondent shifted his house, the Court directed the petitioners herein to take notice to the correct address. He submitted that when the respondent vacated the house, the plaintiffs/petitioners cannot have any knowledge about his new address and therefore, the direction of the Court below to take notice to the correct address of the respondent is not warranted and that the order passed in that regard is illegal. He further submitted that when the suit is filed in the month of October 2015, till now, the plaintiffs could not get the interim orders and the respondent is playing dilatory tactics.

I have perused the material papers including the order passed by the Court below. As seen from the material, nothing is brought before the Court below by way of any affidavit explaining the dilatory tactics alleged to have adopted by the respondent as contended by the petitioners' counsel. When such material is not placed before Court below, the trial Court is perfectly right in directing the petitioner herein to take notice to the correct address, because being the plaintiff, it is for the plaintiff to furnish correct address and not for the Court to find out the address of the defendants/respondents. Further, if the plaintiff feels

that the opposite parties are avoiding service of notice, the remedy of the plaintiff is to invoke the provisions under Code of Civil Procedure but cannot contend that ordering fresh notice to correct address is an unwarranted order. For these reasons, I am of the view that there is no illegality in the order of the Court below and the revision is devoid of merits therefore dismissed at the admission stage.

There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(S.RAVI KUMAR, J)

29th January 2016

RRB