

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.4583 of 2016

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, is preferred by the petitioner being aggrieved by the order dated 08.07.2016 passed in E.P.No.74 of 2015 in O.S.No.6246 of 2002 by the Additional Senior Civil Judge, Tirupathi, whereby the learned Judge dismissed the request of the petitioner for attachment of EP schedule property, on the ground that SASR No.52695 of 2012 is pending before the High Court of Madras.

Heard the learned counsel for the petitioner.

In spite of service of notice, there is no representation for the respondents.

Facts leading to filing of present revision, in a nutshell, are as follows:

Initially, petitioner herein filed O.S.No.6246 of 2002 on the file of 17th Assistant Judge's Court, Chennai, which was dismissed on 29.04.2009. Assailing the same, petitioner preferred an appeal in A.S.No.446 of 2009 on the file of 7th Additional Judge, Chennai, which was allowed on 08.07.2011. Since the schedule properties are located within the jurisdiction of Renigunta Mandal, the decree was transferred to the Court of Additional Senior Civil Judge, Tirupati. Pursuant thereto, petitioner filed E.P.No.74 of 2015 seeking attachment and sale of EP schedule properties, which was dismissed by the learned Judge vide impugned order on the ground that the Second Appeal preferred by the respondents

herein is pending before the High Court of Madras for adjudication. Aggrieved over the same, present revision is filed.

In support of his case, the learned counsel for the petitioner relied on the decision of this Court in ***Mantena Satyanarayana Raju v. Vemuri Venkata Subba Rao and others***¹ wherein this Court while holding that mere pendency of an appeal in the superior Court is not a ground either to stay or prolong the proceedings in the Court below, unless there is a stay by the Superior Court, directed the Court below to dispose of the EA within a period of one month.

In the instant case, the EP proceedings are kept pending on the ground that second appeal is pending before the High Court of Madras. Apparently no stay is granted by the High Court of Madras. In view of the ratio laid down by this Court in the judgment referred supra, the present Civil Revision Petition is disposed of directing the Additional Senior Civil Judge, Tirupati, to dispose of E.P.No.74 of 2015 on merits, in accordance with law, within a period of 6-8 weeks from the date of receipt of a copy of this order.

Consequently, miscellaneous petitions pending in this revision, if any, shall stand closed. No costs.

JUSTICE C. PRAVEEN KUMAR

23.12.2016
sur

¹ 1996 (2) An.W.R. 285