

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

CIVIL REVISION PETITION NO.2556 of 2016

ORDER:

This Civil Revision Petition arises out of an order passed by the trial Court directing the issue notice to the respondents in an application for stay of operation of a judgment and decree in another suit.

Heard Mr. P.S. Nagarajan, learned counsel for the petitioner.

The petitioner filed a civil suit in O.S.No.117 of 2016 on the file of the II Additional District Judge, Vijayawada, seeking a decree of cancellation of the judgment and decree in O.S.No.844 of 2010, dated 21.01.2013 and for a consequential relief of declaration of title to the suit schedule property. It appears that along with the suit the petitioner/plaintiff moved two interlocutory applications, one for interim injunction and another for stay of operation of the judgment in question.

The grievance of the petitioner is that the application for injunction was first numbered and urgent notice was ordered without even looking at the existence of an application for stay. Subsequently, it was numbered and on that application the trial Court passed an order on 27.04.2016 directing only issue of notice to the respondents returnable by 06.06.2016.

Two grievances are sought to be projected. The first is the application for stay ought to have been taken up in the first instance along with the application for injunction. Assuming that such a grievance is justified, the petitioner cannot now get any relief, in respect of such a grievance as the calendar cannot be put back.

The second grievance is that the Court ought to have granted interim stay. Any interim order is subject to the discretion of the Court below. It is true that the discretion has to be exercised in accordance with law and following certain well settled principles. Once the Court

has ordered notice, and the respondents have also entered appearance on 06.06.2016, the petitioner should prepare well to argue the application before the trial Court and get an order on merits rather than challenging the issue of notice. Hence the Civil Revision Petition is devoid of merits. Therefore, it is dismissed. There shall be no order as to costs.

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

JUSTICE V. RAMASUBRAMANIAN

17th June, 2016

Js.