

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.5755 of 2016

25.11.2016

Between:

T.D.S.Kumar and others

..Petitioners

And

M/s.Asservad Resorts Pvt. Ltd., and others

..Respondents

Counsel for the petitioners: Smt.P.Padmavathi for Mr.P.Hemachandra

Counsel for the respondents: Mr.V.Surendra Reddy

The Court made the following:



ORDER:

The grievance of the petitioners, who are defendant Nos.1 to 3 in O.S.No.314 of 2016, is that having taken a tentative view that it may not be possible to proceed with the case in view of the memo filed by defendant No.4 in the suit objecting to the hearing of the case by the Judge concerned, she has nevertheless passed an order of *status quo* till 18.11.2016 and that the same is being continued from time to time.

2. Smt.P.Padmavathi, learned counsel representing Mr.P.Hemachandra, learned counsel for the petitioners, has submitted that the Court below has to make up its mind as to proceed with the case or not and that in the event, it decides to proceed with the case, it has to dispose of I.A.No.1062 of 2016 or otherwise, it should not have granted an order of *status quo*.

3. I find justification in the grievance of the petitioners. A perusal of the docket order, dated 14.10.2016, in I.A.No.1062 of 2016, shows that the Court below appeared to have felt constraints in proceeding with the disposal of the I.A. on merits in view of the memo *vide* SR No.4411, dated 15.09.2016, filed by defendant No.4 evidently, objecting to the hearing the case. The Court below, therefore, ought to have first decided as to whether it should proceed with the case or not. If it wanted to proceed with the case, the Court below should reject the memo and dispose of I.A.No.1062 of 2016. Instead of doing so, it has granted an order of *status quo* without assigning reasons on merits.

4. Therefore, the lower Court is directed to take a decision on memo, dated 15.09.2016, filed by defendant No.4 within two weeks from the date of receipt of a copy of this order. If it decides not to hear the case,

it has to request the Principal District Judge, Visakhapatnam, to transfer the case to some other Court. In a converse situation, it shall dispose of I.A.No.1062 of 2016 within four weeks thereafter, after hearing both sides.

5. Subject to the above directions, the Civil Revision Petition is disposed of.

6. As a sequel to disposal of the C.R.P., C.R.P.M.P.No.7474 of 2016 filed by the petitioners for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

25th November, 2016
GHN

