

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Civil Revision Petition No.6473 of 2016

ORDER:

The present revision is filed under Section 115 of C.P.C. challenging the order in E.A.No.199 of 2015 in E.P.No.16 of 2012 on the file of the learned Principal Senior Civil Judge, Mancherial whereby and whereunder the Court below dismissed an application filed by the petitioners under Order XXI Rule 26 read with Section 151 of C.P.C. seeking stay of all further proceedings in execution of the decree passed by the learned Senior Civil Judge, Manthani in O.S.No.23 of 2010 dated 29.08.2011.

The order impugned in this revision reflects that what all contended by the revision petitioners before the Executing Court was that there was no proper service of summons on them but, somehow, it was managed by the decree-holder as if the summons were refused to be received by the revision petitioners and thereby sought to stay the execution proceedings. The order also reflects that auction was conducted on 20.11.2015 and the same was knocked down by one Thallapalli Shankar Goud, who is the 2nd respondent, and at that stage the present application was moved by the revision petitioners.

Sri T.Ramachander Rao, learned counsel for the revision petitioners, at this stage, pointed out that in paragraph 7 of the affidavit filed in support of the present E.A, the revision petitioners have got mentioned that they filed a petition to condone the delay of 1538 days in filing the petition to set aside the *ex parte* decree in O.S.No.23 of 2010 dated 29.08.2011 along with the written

statement and also other documents, including Aadhar cards, and on that ground they sought to stay the execution proceedings.

In such circumstances, the present application ought to have been filed along with the said interlocutory application filed by the revision petitioners to condone the delay in filing the petition to set aside *ex parte* decree. This apart, the auction was already over and no request is said to have been made to set aside the same by filing an appropriate application.

In that view of the matter, the Civil Revision Petition is without any merit and is, accordingly, dismissed. However, it is left open to the petitioners to move an application seeking stay of execution of the decree in the application said to have been filed by them to set aside the *ex parte* decree. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, if any pending in the instant revision, stand dismissed.

(A.SHANKAR NARAYANA, J)

30th December, 2016
JSU

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Date: 30.12.2016

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