

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.5257 of 2015

ORDER:

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This Civil Revision Petition under Article 227 of the Constitution of India is filed with a request to direct the learned II Additional District Judge, Vijayawada not to proceed with EP.no.71 of 2015 pending disposal of IA.nos.567 & 568 of 2015 in OS.no.531 of 2014 on the file of the Court of the learned XIV Additional District Judge, Vijayawada.

I have heard the submissions of the learned counsel for the revision petitioner/JDr and the learned counsel for the respondent/DHr.

The facts, which are necessary to be mentioned as a prelude, are as follows:

The DHr having obtained a decree for recovery of money had filed the EP for realization of the decree debt. Since the decree that was granted is admittedly an *ex parte* decree, the JDr filed petitions on the original side for setting aside the *ex parte* decree and for condonation of delay in seeking to set aside the *ex parte* decree. During the pendency of the said petitions, the present EP is filed; and assailing the very filing of the EP, the present revision petition is filed even though admittedly no adverse order is passed in the execution proceedings.

At the hearing, the learned counsel for the revision petitioner/JDr would submit that this revision petition may be disposed of giving liberty to the JDr to file a petition before the Court below for grant of stay of the execution proceedings in view of the facts which are peculiar to the case.

The learned counsel for the respondent/DHr would submit that the JDr has always a right to file such an application and that there is no need to grant such a direction and that the JDr has not even filed his counter in the EP.

Recording the aforesaid submissions, the Civil Revision Petition is disposed of, however, with the observation that the revision petitioner/JDr is at liberty, if he so chooses and if so advised, to file an application, before the Court below, for grant of stay of the execution proceedings, which the law permits.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.SEETHARAMA MURTI, J

21st March, 2016

Vjl