

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.750 of 2013

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order, dated 28.09.2012 passed in CMA No.48 of 2012 passed by the VII Additional District (FTC) Visakhapatnam whereunder the appellate court set aside the order dated 23.07.2012 in I.A.No.1043 of 2009 in O.S. No.966 of 2009 by the VI Additional Senior Civil Judge, Visakhapatnam.

The revision petitioner filed an application before the trial court under Rules 1 and 2 of Order XXXIX of the Code of Civil Procedure, 1908 (for short 'CPC') restraining the respondents from proceeding with the constructions in the plaint schedule property.

The trial court, upon hearing argument of both the counsel, granted temporary injunction restraining the respondents from making any construction till disposal of the main suit by order dated 23.07.2012.

Aggrieved by the same the first respondent preferred appeal before the appellate court under Rule 1 of Order XLIII of CPC, the same was allowed. Challenging the same, the present revision is filed raising several contentions.

It is brought to the notice of this court that the suit was dismissed for default on 04.12.2015 there is nothing to be adjudicated by this court exercising power under Article 227 of the Constitution of India. However, the apprehension of the counsel for the respondent is that in case suit is restored, automatically the interim order will be restored then it will have its own impact on

the rights of the parties. If for any reason, the suit is restored, the trial court is directed to decide the suit, as expeditiously as possible, in any event not later than 6 months, from the date of such restoration, if any.

Accordingly, the civil revision petition is disposed of. No costs.

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

M.SATYANARAYANA MURTHY,J

Date:27.06.2017
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