

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.2078 of 2017

ORDER:

The Civil Revision Petition is filed against the order dated 23.12.2016, passed in IA.No.521 of 2016 in IA.No.448 of 2014 in OS.No.43 of 2009, wherein the Court below allowed the application filed by the defendant Nos.2 to 4 under Section 151 CPC for early disposal of IA.No.448 of 2014.

Learned counsel for the petitioner as well as 1st respondent submits that the Division Bench of this Court in the first appeal i.e., AS.No.573 of 2016, directed the trial Court to dispose of the suit itself within three months and in case it is not possible to dispose of the suit, directed to make endeavour to dispose of atleast the application for injunction. They vehemently submits that the trial Court has not made any endeavor to dispose of the suit; that without making any effort to dispose of the suit, now allowed the IA.No.521 of 2016 filed by the defendants 2 to 4 for early disposal of injunction petition in IA.No.448 of 2014, which is erroneous. They also submits that earlier when the defendants 2 to 4 filed one more IA No.484 of 2016 seeking to advance the date of hearing of IA.448 of 2014, the same was dismissed, as such, the impugned order is erroneous. They further submit that the defendants are trying to alienate the suit schedule

property and that they are not cooperating for disposal of the suit.

On the other hand, learned counsel for respondents 2 to 4 submits that there are nearly 200 defendants in the suit in OS.No.43 of 2009; that several IAs are pending in the said suit; and that one CRP is also pending before this Court. He further submits that the Division Bench directed to dispose of the injunction application in case it is not possible to dispose of suit within the time specified by the High Court.

It is to be seen that the Division Bench while dismissing the appeal AS.No.573/2016 filed by the revision petitioner i.e., at para 21 held as follows;

“21. Accordingly, the appeal is dismissed with costs which we quantify at Rs.10,000/- to be paid by the appellant herein to the respondents 2 to 5. Since there are nearly 200 defendants in the suit, it is unlikely that the suit would see the light of the day very soon. Therefore, we direct the Court below either to endeavour to dispose of the suit within a period of three months and if it is not possible, to endeavour to dispose of at least the application for injunction.”

A perusal of the impugned order goes to show that several IAs are pending in the suit and one CRP is also pending before this Court. The trial Court after referring the pendency of IAS and referring several facts and circumstances, came to a conclusion that suit could not be

disposed of within the time fixed by this Court in the first appeal, and allowed the IA.No.521 of 2016 filed for early disposal of IA.No.448 of 2014. The Division Bench in the first appeal i.e.AS.No.573/2016, observed that the trial Court should made an endeavour to dispose of the suit within three months and if it is not possible to endeavour to dispose of atleast the application for injunction. As such, the contention of the revision petitioner and 1st respondent that there was a direction to dispose of the suit only, is not correct. More so, the trial Court passed elaborate order and gave reasons while allowing the IA.No.521 of 2016 stating that it is not possible to dispose of the suit as directed by the Division Bench in the first appeal and sought to take up injunction petition. It is not known why the revision petitioner and 1st respondent are objecting for disposal of injunction petition. Even if injunction petition is disposed of, there is no bar for trial Court to dispose of the suit, since suit is also of the year 2009.

In view of the aforesaid facts and circumstances, I do not see any reason to entertain the revision. As no rights of the parties are decided, it is not a fit case to interfere with the impugned order under Article 227 of the Constitution of India. Accordingly, the CRP is dismissed. No order as to costs. Since it is stated that the 1st respondent who is the 2nd plaintiff in OS.No.43/2009, has also filed suit for partition in OS.No.204/2005 which is renumbered as OS.No.127/2016,

the trial Court is obligated to dispose of both the suits as expeditiously as possible, since they are pertaining to the years 2005 and 2009.

As a sequel thereto miscellaneous petitions, if any pending, in the CRP shall stand closed.

A.RAJASHEKER REDDY, J

24.04.2017
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