

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.2291 OF 2017

ORDER:

The Civil Revision Petition is filed questioning the order dated 27.02.2017, passed by the I Additional District Judge, Nellore in I.A.No.1126 of 2016 in A.S.No.175 of 2016.

It is the case of the petitioner that he had filed a suit in O.S.No.166 of 2015 on the file of I Additional Senior Civil Judge, Nellore, seeking permanent injunction against 1) Akula @ Patti Dhanraj and 2) Akula @ Patti Srinivasulu. Likewise, the respondents had also filed a suit in O.S.No.642 of 2009 on the file of the same Court against the petitioner seeking for a declaration that the plaint schedule property is the absolute property of Akula Panchalasetty Choultry and for consequential relief of permanent injunction with respect to the suit schedule property. While O.S.No.642 of 2009 was allowed, O.S.No.166 of 2015 was dismissed, by the I Additional Senior Civil Judge, Nellore by a judgment and decree dated 1.7.2016. Questioning the same, the petitioner herein filed an appeal in A.S.No.175 of 2016 on the file of the I Additional District Judge, Nellore. Pending disposal of said appeal, the petitioner had also filed an application in I.A.No.1126 of 2016 seeking suspension of the operation of the judgment and decree dated 1.7.2016 and the said application was dismissed by the Appellate Court below by a judgment dated 27.02.2017. Aggrieved with the same, the present civil revision petition is filed.

Learned counsel for the petitioner submits that there is a pleading in I.A.No.1126 of 2016 and the said application is laconic and not properly drafted. He would also submit that the petitioner is in possession and enjoyment of the property, and in that view of the matter,

learned counsel for the petitioner seeks remanding the matter back to the Court below for fresh consideration.

Learned counsel for the respondents while opposing the same submits that the property in question belongs to a charitable trust and as a matter of fact during the pendency of the suit in O.S.No.642 of 2009, respondents were granted temporary injunction. However, the same came to be vacated. Thereby, there was no injunction operating against the respondents during the pendency of the suit. Now the respondents having succeeded in the suit, no injunction can be granted against them. Learned counsel further submits that there are no valid reasons for suspension of the judgment and decree dated 1.7.2016 passed by the I Additional Senior Civil Judge, Nellore in O.S.No.642 of 2009.

Perused the record. A perusal of the affidavit filed in support of I.A.No.1126 of 2016 does not disclose any reasons as to why and in what circumstances, the judgment and decree dated 1.7.2016 which was made after trial is required to be suspended. It may also be noted that the suit in O.S.No.642 of 2009 was filed seeking for declaration of the suit property of a charitable organization viz. Akula Penchalasetty Choultry, which is running for public purpose. In those circumstances, dismissal of the impugned I.A filed by the petitioners without there being any valid reasons cannot be interfered with and the order impugned can be sustained. However, so far as the apprehension of the petitioner that in the event of the respondents file an Execution Petition, the Court below may consider and pass an order adverse to them, is concerned, it is made clear that in the event of an Execution Petition being filed by the respondents, the Court below would consider and pass appropriate orders on its own merits.

Subject to the above observations, the Civil Revision Petition is disposed of. Miscellaneous Petitions, if any pending in this revision petition, shall also stand closed. No order as to costs.

Date:28.07.2017
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CHALLA KODANDA RAM



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