

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2461 OF 2017

ORDER:-

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs, seeking a direction to the lower appellate Court, i.e., XII Additional District Judge, Pithapuram, East Godavari District, for early disposal of C.M.A.No.5 of 2017 pending before it, which is filed by the petitioner herein.

2. It is the case of the petitioner that he filed a petition in I.A.No.1219 of 2016 under Order XXXIX Rules 1 and 2 of C.P.C. in O.S.No.181 of 2016 on the file of Senior Civil Judge, Pithapuram, for grant of interim injunction and the same was dismissed. The said order is carried in appeal in C.M.A.No.5 of 2017 before the XII Additional District Judge, Pithapuram, and it is pending before the said Court. The matter was adjourned to 20.06.2017.

3. The main reason for seeking such a relief is that the mango produce in the suit schedule property is likely to be damaged, if the appeal is not disposed of by the lower appellate Court. All the prudent advocates are aware of the fact that Civil Courts are on vacation till the end of the month, High Court holding vacation Court only to decide the urgent matters, but contrary to that, a strange direction is sought in the instant case against the lower appellate Court which is closed for vacation till the end of this month. In the

considered view of this Court, filing of this revision is nothing but circumventing the situation for obtaining one relief or the other. If really the mango produce is likely to be affected due to pendency of the C.M.A., nothing prevented the petitioner to move an application under Order XXXIX Rule 6 of C.P.C., before the Vacation Court. However, this Court, having entertained the revision petition, is bound to pass order, as the petitioner complained inaction on the part of the lower appellate Court.

4. The lower appellate Court, in fact, adjourned the matter to 20.06.2017 on account of the intervening Summer Vacation for one month for the civil Courts. If really the petitioner is interested in seeking the relief claimed in this revision, he would have approached the Vacation Court at Rajamahendravaram. But for different reasons, he had approached this Court. Since the C.M.A. is of the year 2017, it is not proper to issue any direction to the lower appellate Court to decide the matter early, giving undue preference to this matter when several such matters are pending which are much older than the instant matter. However, it is left open to the lower appellate Court, i.e., XII Additional District Judge, Pithapuram, East Godavari District, to decide the matter as expeditiously as possible.

5. It is pertinent to mention here that the jurisdiction of this Court under Article 227 of the Constitution of India is limited, which is supervisory in nature on all subordinate Courts and Tribunals

under the control of this Court. As per the settled legal position, this Court can only exercise jurisdiction under Article 227 of the Constitution of India only if the lower Court failed to exercise its jurisdiction vested in it; acted in excess of jurisdiction vested in it; or exercised the jurisdiction vested in it in irregular manner. Except in the above circumstances, this Court cannot exercise its jurisdiction, even if the order passed by the Court below is wrong.

6. Therefore, I am not inclined to issue any direction to the lower appellate Court. However, it is left open to the XII Additional District Judge, Pithapuram, East Godavari District, to decide the matter expeditiously, however, in accordance with law.

7. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

M. Satyanarayana Murthy, J

11th May, 2017
Bvv