

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

C.R.P.No.3161 of 2017

Date : 07-07-2017

Between:

Bogadi Kanaka Rao

.. Petitioner

and

Malla Bala Sandhya

.. Respondent

Counsel for petitioner : Mr. Velagani Narasimhulu

Counsel for respondent : --



The Court made the following:

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India for a direction to the learned XII Additional District & Sessions Judge, Visakhapatnam to dispose of I.A.No.232 of 2016 in A.S.No.51 of 2016.

I have heard Mr. V. Narasimhulu, learned Counsel for the petitioner and perused the record.

The petitioner is the defendant in O.S.No.563 of 2012 filed by the respondent seeking his eviction. By Judgment and decree dated 19-2-2016, the learned VI Additional Senior Civil Judge, Visakhapatnam, has decreed the said suit. Assailing the same, the petitioner has filed A.S.No.51 of 2016 which is said to be pending before the learned XII Additional District & Sessions Judge, Visakhapatnam. The petitioner pleaded that I.A.No.232 of 2016 filed by him for stay of operation of the Judgment and decree in the suit is being adjourned from time to time without passing an interim order. In support of his plea, the petitioner filed a copy of the docket proceedings, a perusal of which shows that the said I.A. was adjourned as many as 13 times and from 26-8-2016 the case underwent as many as 7 adjournments under the caption "For Enquiry".

As rightly pleaded by the petitioner, he has a right in law to seek an appropriate interim relief pending the appeal and any laxity on the part of the lower appellate Court in considering the application for interim relief may frustrate the very purpose for which the appeal is filed. *Ex facie*, I do not find any justification for the lower appellate Court to repeatedly adjourn the I.A. without considering the grant of interim order, especially

when the relief claimed therein pertains to stay of the Judgment and decree of the trial Court directing eviction of the petitioner. In this view of the matter, the lower appellate Court is directed to dispose of I.A.No.232 of 2016 in A.S.No.51 of 2016 positively within one month from the date of receipt of this order.

Subject to the above direction, the Civil Revision Petition is disposed of.

As a sequel to the disposal of the Civil Revision Petition, CRPMP No.4169 of 2017 filed for interim relief is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 07-07-2017

AM

