

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2510 OF 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India challenging the order passed by the XII Additional Chief Judge, City Civil Court at Secunderabad in O.S.No.150 of 2007 dated 21.04.2017 issuing a direction to the plaintiffs to get ready to adduce evidence on the next date of hearing.

It appears from the order that the petitioners filed petition in O.S.No.150 of 2007, under Order XVII Rule 1 of C.P.C, which was allowed with a condition to adduce evidence. Though the suit was filed in the year 2005, issues were framed on 07.02.2009. Thereafter, the matter was being posted from time to time for trial at the request of the petitioners. But the petitioner did not get ready. Therefore, the Trial Court issued such direction to get ready to adduce evidence on the next date of hearing and posted the matter to 26.04.2017.

The said order is challenged on various grounds, mainly contending that when the criminal proceedings are pending pertaining to the same property, which is the subject matter of civil suit, the Court can grant stay between the same parties, the Court can defer the disposal of the civil proceedings, as there is a possibility of causing delay but the criminal proceedings cannot be dragged for such a long time.

During hearing, learned counsel reiterated the contentions filed in the affidavit and drawn attention of this Court to paragraph 16 of the judgment of the Apex Court in **M.S. Sheriff v. State of Madras**¹ which reads as follows:

“16. Another factor which weighs with us is that a civil suit often drags on for years and it is undesirable that a criminal prosecution should wait till everybody concerned has forgotten all about the crime. The public interests demand that criminal justice should be swift and sure; that the guilty should be punished while the events are still fresh in the public mind and that the innocent should be absolved as early as is consistent with a fair and impartial trial. Another reason is that it is undesirable to let things glide till memories have grown too dim to trust. This, however, is not a hard and fast rule. Special considerations obtaining in any particular case might make some other course more expedient and just. For example, the civil case or the other criminal proceeding may be so near its end as to make it inexpedient to stay it in order to give precedence to a prosecution order of under Section 476. But in this case we are of the view that the civil suits should be stayed till the criminal proceedings have finished.”

Even according to the judgment relied on by the learned counsel for the petitioner, the Court can grant stay but cannot wait for such a long period. In fact, there is a cap against grant of adjournments i.e. three adjournments to each party as per Civil Procedure Code (Amendment) by Act No.22 of 2002. If, for any reason such adjournments are granted, it is against the spirit of Civil Procedure Code (Amendment) by Act No.22 of 2002. Therefore, denial of adjournment and passing an order to adduce evidence on the next date of hearing cannot be faulted. Even

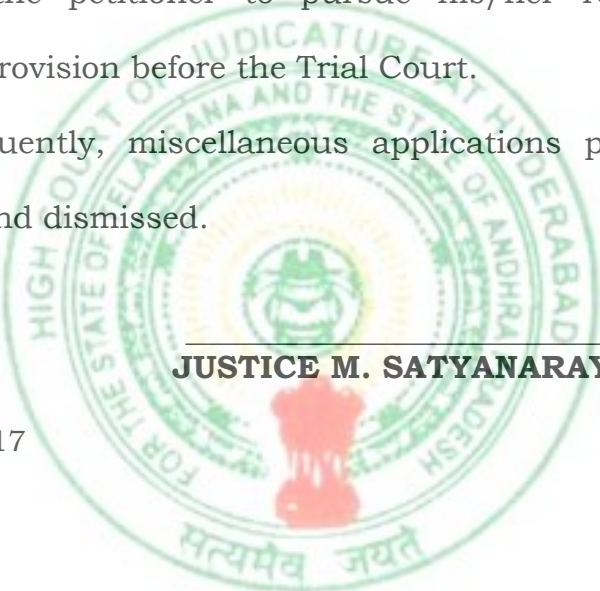
¹ AIR 1954 SUPREME COURT 397

according to the judgment referred supra, the petitioner can file a petition for stay. Therefore, it is left open to the petitioner to pursue his appropriate remedies before the Court, if advised, but the order cannot be set-aside by exercising power under Article 227 of the Constitution of India.

Hence, I find no ground warranting interference of this Court in the order under challenge and consequently the civil revision petition is liable to be dismissed.

In the result, the civil revision petition is dismissed, leaving it open to the petitioner to pursue his/her remedies under appropriate provision before the Trial Court.

Consequently, miscellaneous applications pending if any, shall also stand dismissed.



JUSTICE M. SATYANARAYANA MURTHY

Date:09.06.2017

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