

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.4009 OF 2017

ORDER:

Defendant in O.S.No.145 of 2010 on the file of the Court of the Junior Civil Judge, Pattikonda is the petitioner in the present revision filed under Article 227 of the Constitution of India.

2. This revision challenges the order passed by the Court of the II Additional District Judge, Kurnool at Adoni in C.M.A.No.17 of 2011, dated 18.08.2015, dismissing the appeal filed by the petitioner herein against the order in I.A.No.287 of 2010 in O.S.No.145 of 2010 passed by the Court of the Junior Civil Judge, Pattikonda.

3. Heard Sri K.V.Raghu Veer, learned counsel for the petitioner, and Sri A.Chandraiah Naidu, learned counsel for the respondent.

4. Respondent herein instituted the said suit for permanent injunction. Along with the said suit, he also filed I.A.No.287 of 2010 under the provisions of Order XXXIX Rules 1 and 2 seeking temporary injunction. Initially, *ex parte* injunction was granted on 01.10.2010. Thereafter, by way of an order, dated 06.05.2011, the same was made absolute by the trial Judge.

5. As against the said order, the petitioner herein filed C.M.A.No.17 of 2011 on the file of the Court of the II Additional District Judge, Kurnool at Adoni. The learned Additional District Judge, by way of an order, dated 18.08.2015, dismissed the said appeal. The said orders passed by the trial Court and the lower appellate Court are under challenge in the present revision.

6. According to the learned counsel for the petitioner, the orders impugned are highly illegal, erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. It is also the submission of the learned counsel that without properly considering the evidence available on record, the trial Court as well as the lower appellate Court passed the impugned orders, as such, they are liable to be set aside.

7. On the other hand, it is submitted by the learned counsel for the respondent that the present revision is liable to be dismissed on the sole ground of delay, as the learned Additional District Judge passed the impugned order as long back as on 18.08.2015 and no reasonable explanation is forthcoming for the said abnormal delay in filing the revision. It is also the submission of the learned counsel for the respondent that only after thoroughly and meticulously considering the entire material available on record, both the trial Court as well as the lower appellate Court passed the orders under challenge, as such, the same are not amenable for any correction under Article 227 of the Constitution of India.

8. There is absolutely no dispute with regard to the fact that the trial Court granted *ex parte* injunction as long back as on 01.10.2010. Thereafter, after contest, the learned Junior Civil Judge allowed I.A.No.287 of 2010 by way of an order, dated 06.05.2011. The appeal i.e., C.M.A.No.17 of 2011 preferred by the petitioner herein against the injunction granted by the trial Court

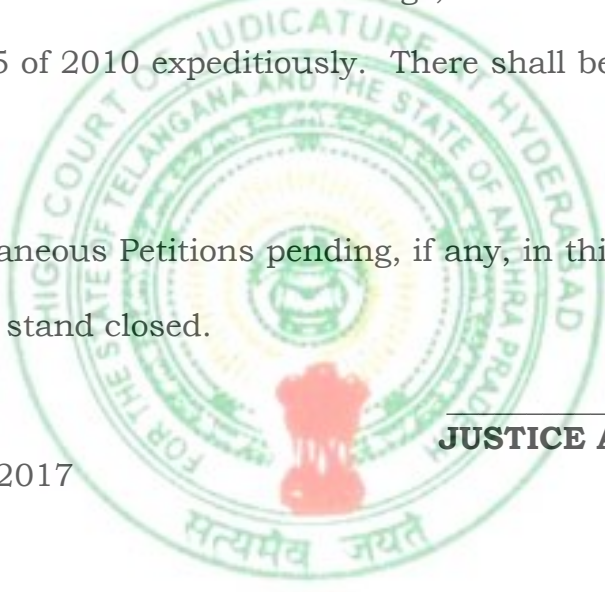
also ended in dismissal as long back as on 18.08.2015. Therefore, as correctly pointed out by the learned counsel for the respondent, the present revision is liable to be rejected on the ground of delay in the absence of any proper explanation offered by the petitioner. It is also to be noted that the trial Court granted the injunction long back and the same has been in force for the last seven years and at this length of time, this Court is not inclined to disturb the said orders.

9. Accordingly, the Civil Revision Petition is dismissed. However, the learned Junior Civil Judge, Pattikonda shall dispose of O.S.No.145 of 2010 expeditiously. There shall be no order as to costs.

10. Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed.

Date : 05.12.2017
AMD

JUSTICE A.V.SESHA SAI



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