

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.5469 of 2016

ORDER

The petitioner is defendant in O.S.No.34 of 2008 on the file of the Senior Civil Judge, Markapuram. The respondent herein filed the said suit for specific performance of agreement of sale dated 06.12.2007. The evidence in the said suit was completed and the suit is coming up for arguments. At this stage, the petitioner-defendant filed I.A.No.135 of 2016 seeking stay of further proceedings in the suit and continuing the counter claim filed by her.

A perusal of the affidavit filed by the petitioner does not disclose as to the date on which the counter-claim was filed and whether it was numbered. It is evident from the sequence of events that the petitioner filed a written statement long back and evidence was completed. At this stage, the defendant cannot ask the trial Court to stay the suit and continue her counter-claim details of which are not available. In any event, such a relief is unknown to law. The trial Court dismissed the said application with the following observations.

“The main suit was filed by the respondent for specific performance of agreement of sale against the claimant. The respondent adduced his evidence. The claimant was examined as DW1 and got marked Exs.B1 to B4 and got examined DWs.2 to 4. The contention of the claimant is that the

respondent trespassed into suit schedule property by removing fencing and cut away mango trees worth of Rs.10,000/- and threatened her and her husband and their men. The claimant elicited all these things in her evidence. So these things can be looked into at the time of deciding the main suit. The claimant need not file this counter claim for temporary injunction. The suit cannot be dismissed or the plaint cannot be rejected at this stage on the ground set out by the claimant. In view of these reasons this Court holds that the claimant is not entitled for the relief as prayed for. The point is answered accordingly.”

I am in agreement with the order passed by the trial Court as there cannot be any stay of hearing the main suit at this stage.

In the circumstances, the Civil Revision Petition is dismissed.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

4th January, 2016
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