

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.5938 of 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India challenging the docket order dated 27.10.2017 passed in I.A.No.476 of 2017 in O.S.No.15 of 2017 by the VI Additional District Judge, Medak at Siddipet declining to extend the interim order granted in I.A.No.476 of 2017 in O.S.No.15 of 2017 dated 01.08.2017.

It is the contention of the petitioners herein that the respondent/defendant herein alienated the property on 19.01.2013 by way of gift deed in favour of third party, who is proposed to be impleaded by filing an application under Order 1 Rule 10 of Code of Civil Procedure (for short "C.P.C.") which is now pending before the trial Court.

It appears from the record, the petitioners filed a memo dated 27.10.2017 requesting the Court to extend the interim order passed in I.A.No.476 of 2017 in O.S.No.15 of 2017 dated 01.08.2017 until further orders.

Filing of memo for extension of interim order is not contemplated either in C.P.C. or Civil Rules of Practice and no judicial order can be passed on the memo as the memo is only information to the Court. But the petitioners insisted the trial Court to extend the interim order based on memo instead of filing a petition for extension. Therefore, the

docket order passed by the trial Court declining to extend the interim order based on memo cannot be found faulted.

Suit was filed in the year 2017 i.e. subsequent to alienation of property by the respondent/defendant and the order passed by the trial Court becomes ineffective in view of alienation of property by execution of gift deed in favour of proposed respondent even before filing suit.

Now, the apprehension of the petitioners is that in case the proposed respondent alienates the property, it will multiply the litigation and to avoid such multiplication of litigation, they requested this Court to extend the interim order.

The Court may pass any order against a party to the suit and not against a person who is not a party and proposed to be impleaded in view of the judgment rendered by this Court in “**Kagitala Venkata Chalapathi Rao v. Smt.Sabarunnissa Begum**”¹ Therefore, till the proposed party is impleaded as respondent, the Court cannot grant any interim order since he/she is not a party to the proceeding as on today except for special reasons, but I find no special reason to grant interim order in the present case. However, if any alienation is made by any of the parties to the suit during pendency of it, it is hit by doctrine of *lis pendens* under Section 52 of Transfer of Property Act.

¹ 2017 (4) ALT 367

In view of my foregoing discussion, I find no ground to admit the revision and the same is liable to be dismissed at the stage of admission.

In the result, the civil revision petition is dismissed at the stage of admission. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

03.11.2017
Ksp

