

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.6552 of 2017

ORDER:

Heard Sri Harinath Reddy Soma, counsel for revision petitioners and Sri Rama Mohan Palanki, counsel for respondents.

2. Petitioners have filed this Revision assailing the order dt.12.10.2017 in O.S.No.124 of 2012 of the IV Additional District Judge, Tirupathi, Chittoor District.

3. The following order is passed by the said officer:

“Plaintiffs are called absent and No representation on their behalf. It appears the plaintiff filed the suit for specific performance in 2012 and balance of sale consideration of Rs.40,00,000/- under alleged agreement of sale dated: 29.05.2009 need to be paid. Plaintiff is not showing much interest in the suit. However as one more chance for trial finally call on 01.11.2017. The plaintiffs are also directed to deposit balance of sale consideration of Rs.40,00,000/- on or before 01.11.2017; failing which suit will be dismissed.”

4. A reading of the above order shows that on the ground that the petitioners/plaintiffs were not showing interest in the suit, they were directed to deposit entire balance sale consideration in the suit for specific performance amounting to a sum of Rs.40,00,000/- on or before 01.11.2017 with a condition that, if not, the suit would be dismissed.

5. No provision of law or decision is quoted by the learned judge as to how such a condition can be imposed on the petitioners/plaintiffs by him.

6. Counsel for respondents also does not dispute that the order passed by the Court below is not in conformity with law.

7. If the petitioners/plaintiffs were not cooperating for the trial in the suit, nothing prevented the Court below from taking appropriate steps as provided in the CPC, but it cannot direct a sum of Rs.40,00,000/-, which is mentioned as sale consideration in the agreement of sale whose specific performance is sought in the suit, to be deposited as a condition precedent by the plaintiffs and threaten that the suit would be otherwise dismissed.

8. This order clearly shocks the conscience of the Court.

9. Therefore, this Civil Revision Petition is allowed; the order dt.12.10.2017 in O.S.No.124 of 2012 of the IV Additional District Judge, Tirupathi, Chittoor District, is set aside; and the IV Additional District Judge, Tirupathi, Chittoor District is directed to decide the suit in accordance with the procedure prescribed in the CPC, without insisting on the deposit of a sum of Rs.40,00,000/- by the petitioners/plaintiffs as directed by it in its order. No costs.

10. The Registrar General shall call for an explanation from the IV Additional District Judge, Tirupathi, Chittoor District regarding the order dt.12.10.2017 in O.S.No.124 of 2012 which is impugned in this Revision.

11. Consequently, miscellaneous petitions, pending if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

29th December, 2017.
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