

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No. 6863 OF 2017

ORDER :

This Civil Revision Petition is filed against order dated 13.10.2017 in E.P.No.13 of 2016 in O.S.No.247 of 2012, wherein the Court below has allowed the application filed by the respondent/plaintiff/Decree Holder herein under Order XXI Rule 32 of Civil Procedure Code, seeking detention of petitioner/judgment debtor in civil prison for violation of decree passed against him for permanent injunction.

Heard learned counsel for the petitioner/judgment debtor, who submits that no proper issues are framed in the suit in O.S.No.247 of 2012 and the Court below has wrongly decreed the suit. He submits that when the appeal filed against the judgment and decree in O.S.No.247 of 2012 is pending, the Court below would not have allowed this application. He contends that in the written statement filed by him in O.S.No.247 of 2012, he states that he is in possession and enjoyment of the said property, as such, there is no violation of permanent injunction granted in O.S.No.247 of 2012 against him.

Learned counsel for the petitioner tried to argue on the merits of judgment and decree in O.S.No.247 of 2012.

It is to be seen that the Court below has rightly held that there is no stay granted by the appellate Court in an appeal filed by the petitioner/judgment debtor against judgment and decree dated 22.06.2015 in O.S.No.247 of 2012. Even now, learned

counsel for the petitioner has not placed any order of stay in the alleged appeal filed by the petitioner against judgment and decree in OS No.247 of 2012. When the judgment and decree in the aforesaid suit has become final, still the petitioner/judgment debtor cannot contend that he is in possession of the property. The Court below has rightly considered the case of the respondent/decreed holder after considering evidence on either side. That apart, learned counsel for the petitioner has not brought any infirmity or illegality committed by the Court below in passing the judgment and decree dated 22.06.2015 in O.S.No.247 of 2012.

In view of above facts and circumstances, I do not see any reason to interfere with the order passed by the Court below by exercising the power under Article 227 of the Constitution of India.

Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed.

A.RAJASHEKER REDDY, J

11-12-2017
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Date: 11.12.2017

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