

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.7242 of 2017

ORDER:

Heard.

Assailing the order dated 11.12.2017, passed in I.A.No.1108 of 2017 in A.S.No.23 of 2017, by Senior Civil Judge, Ramachandrapuram, wherein the application filed under Order 41 Rule 5(1) and Section 151 of CPC seeking to grant stay of all further proceedings in O.S.No.142 of 2011, under decree dated 20.06.2017, was rejected, the present Civil Revision Petition came to be filed under Article 227 of the Constitution of India.

As seen from the record, the petitioner/ plaintiff filed O.S.No.142 of 2011, against the defendant seeking to declare the title of plaintiff by adverse possession over the plaint schedule property and to grant permanent injunction restraining the defendant from alienation of plaint schedule property in favour of his kith and kin. Vide judgment dated 20.06.2017, the said suit was dismissed. Challenging the same, the plaintiff filed A.S.No.23 of 2017 before the Senior Civil Judge, Ramachandrapuram. Pending the said appeal, he filed I.A.No.1108 of 2016, seeking stay of all further proceedings in O.S.No.142 of 2011 under decree dated 20.06.2017. By its judgment dated 11.12.2017, the said application came to be dismissed, on merits. Challenging the same, the present revision petition came to be filed.

Sri E.V.V.S.Ravi Kumar, learned counsel for the petitioner, would contend that there is a mistake on the part of the counsel in filing the

present application. According to him, the counsel should have filed a petition seeking injunction in the appeal, but instead he filed an application for stay of proceedings in the original suit, which appears to be incorrect.

Sri T.V.S.Prabhakar Rao, learned counsel for the respondent would submit that when the suit itself is dismissed, the question of granting stay of the proceedings in the suit, would not arise.

As seen from the record, the plaintiff filed a suit to declare the title by adverse possession and also for permanent injunction, which was dismissed on 20.06.2017. Challenging the same, he preferred an appeal. Thereafter, instead of seeking appropriate relief in the appeal, which is pending before the appellate Court, the petitioner sought for stay of further proceedings in decree passed in O.S.No.142 of 2011, subsequent to the dismissal of the main suit.

When the suit filed by the plaintiff itself was dismissed, question of staying any proceedings would not arise. Learned counsel for the petitioner mainly submits that the plaintiff should have filed an application seeking injunction in the appeal instead of seeking stay of proceedings in the suit.

In view of the above, I see no ground to interfere with the order passed by the Court below. However, the petitioner is always at liberty to file suitable application in the appeal, seeking appropriate relief, in which event, the appellate Court shall deal with the same, un-influenced by the observation made in the order impugned herein, in accordance with law. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

29.12.2017
vhb

C. PRAVEEN KUMAR, J

