

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.98 OF 2018

ORDER:

This Civil Revision Petition is filed under Section 115 C.P.C. assailing the order dated 12.12.2017 passed in I.A.No.1316 of 2017 in O.S.No.111 of 2017 on the file of the Court of III Additional District Judge, Tirupati.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the petitioner filed I.A.No.1316 of 2017 seeking stay of all further proceedings in O.S.No.88 of 2013 on the file of the Court of the Additional Senior Civil Judge, Tirupati. The respondent filed counter opposing granting of stay. The first appellate Court dismissed the petition. Hence, the revision.

4. The point that arises for consideration in this revision is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

5. A perusal of the record reveals that the respondent filed O.S.No.88 of 2013 on the file of the Court of the Additional Senior Civil Judge, Tirupati, against the petitioner for recovery of the suit amount. The trial Court decreed the suit. Feeling aggrieved by the judgment and decree of the trial Court, the petitioner preferred A.S.No.111 of 2017 on the file of the Court of III Additional District Judge, Tirupati. The petitioner also filed I.A.No.1316 of 2017 seeking stay of all further proceedings in O.S.No.88 of 2013 during pendency of the appeal. For one reason or other, the first appellate Court dismissed the petition. This Court, while granting stay,

directed the petitioner to deposit 50% of the decretal amount within eight weeks.

6. At the time of arguments, learned counsel for both parties submitted that the petitioner deposited 50% of the decretal amount to the credit of O.S.No.88 of 2013. Learned counsel for both parties, in all fairness, submitted that the respondent may be permitted to withdraw the deposited amount and stay may be continued till disposal of A.S.No.111 of 2017.

7. In view of the submission made by the learned counsel for both parties, this Court is of the considered view that it is a fit case to allow the revision.

8. In the result, the Civil Revision Petition is allowed setting aside the order dated 12.12.2017 passed in I.A.No.1316 of 2017 in A.S.No.111 of 2017. Consequently, I.A.No.1316 of 2017 in A.S.No.111 of 2017 on the file of the Court of III Additional District Judge, Tirupati, is allowed granting stay of all further proceedings in O.S.No.88 of 2013 on the file of the Court of the Additional Senior Civil Judge, Tirupati, till disposal of A.S.No.111 of 2017. However, the respondent/plaintiff is permitted to withdraw the amount deposited in O.S.No.88 of 2013 without furnishing any security. There shall be no order as to costs.

9. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.09.2018
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