

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.441 OF 2018

ORDER:

This revision petition is filed under Section 115 C.P.C. questioning the propriety and legality of the order dated 30.10.2017 in E.A.No.195 of 2017 in E.P.No.315 of 2015 in O.S.No.2113 of 2013 passed by the I Senior Civil Judge, City Civil Court, Hyderabad.

The respondent filed petition to set aside the exparte decree along with the petition to condone delay, under Section 5 of the Limitation in filing the petition, raising several contentions in the execution petition. The petitioner also filed application under Order XXI Rule 26 to 29 C.P.C. for grant of interim stay of all further proceedings on the ground that the other petitions filed under Section 5 of the Limitation Act and Order 9 Rule 13 C.P.C are pending before the original Court for adjudication. Thus, the Court passed blanket order of stay till disposal of the petitions filed under Section 5 of the Limitation Act and Order 9 Rule 13 C.P.C.

According to Order XXI Rule 26 C.P.C., the Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto.

Order XXI Rule 26 C.P.C. conferred power on the Court to stay further proceedings for a reasonable time. The reasonable time depends on the facts of each case. In the present case, the decree was obtained in the year 2014 and execution petition was filed in the year 2015. The petitions filed under Section 5 of the Limitation Act and Order 9 Rule 13 C.P.C. are pending and the respondent was successful in dragging the proceedings sufficiently taking advantage of the procedural aspect. However, granting stay till disposal of the application is unreasonable. Therefore, the impugned order is limited to a period of three months or till disposal of the petitions under Section 5 of the Limitation Act and Order 9 Rule 13 C.P.C., whichever is earlier.

With the above modification, the revision petition is disposed of at the stage of admission. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

30.01.2018
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