

**HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**CIVIL REVISION PETITION No.607 of 2018**

**ORDER :**

This Civil Revision Petition is arising out of I.A.No.66 of 2013 in O.S.No.30 of 2008 which is pending on the file of Additional District Judge (Family Court) at Srikakulam. This is a petition filed under Article 227 of the Constitution of India seeking a direction to the learned Additional District Judge (Family Court), Srikakulam to dispose of I.A.No.66 of 2013 in O.S.No.30 of 2008 within a period of four weeks.

Heard the arguments of learned counsel for the petitioner and perused the affidavit filed by the petitioner stating that respondent No.1 has filed a suit in O.S.No.30 of 2008 on the file of the Additional District Judge (Family Court) at Srikakulam for grant of a decree for specific performance of the Agreement of Sale dated 19.12.1998 in respect of the suit schedule property. The said suit was decreed exparte. Thereafter, the petitioner has filed I.A.No.66 of 2013 on 23.12.2012 to set aside the said exparte decree dated 03.12.2012, in which the 1<sup>st</sup> respondent has filed counter on 29.04.2013. but, the said I.A. has been adjourned from time to time. Taking advantage of the said exparte decree, the 1<sup>st</sup> respondent is proceeding further by virtue of his various acts. Ordinarily, after issuing notice, we dispose of the Civil Revision Petitions. In the instant case, learned

counsel for the petitioner submits that the I.A. is pending which was filed to set aside the exparte decree and by virtue of the decree, the plaintiff has been proceeding further against the defendants. If that is the situation, if I.A.No.66 of 2013 is pending on the file of the learned Additional District Judge, the learned Judge has to dispose of the same immediately by giving opportunity to both the parties of hearing and pass appropriate orders. Learned counsel for the petitioners also submits that execution petition has been filed and even after filing of the execution petition, I.A.No.66 of 2013 is pending on the file of the trial Court without disposing of the same and, therefore, sought for a direction to dispose of the I.A.

Since the matter pertains to the disposal of I.A.No.66 of 2013, which was filed to set aside the exparte decree, which was pending on the file of the Additional District Judge, in its usual course, the learned Judge ought to have disposed of the said application. Since exparte decree was passed in the year 2013, the learned Judge has to dispose of the same immediately within a period of two months from the date of receipt of a copy of this order.

Accordingly, this Civil Revision Petition is disposed of.  
No order as to costs.

As a sequel, miscellaneous petitions pending, if any,  
shall stand closed.

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GUDISEVA SHYAM PRASAD, J

16.02.2018.

NOTE: Issue C.C. by 19.02.2018.  
(B/O)  
Msr



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