

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.355 of 2018

ORDER:

Heard learned counsel for petitioners and this CrI.R.C. is disposed of at the admission stage.

2) This Criminal Revision Case is filed by the petitioners aggrieved by the order dated 04.01.2018 in CrI.M.P.No.379 of 2017 in CrI.A.No.543 of 2017 passed by learned VI Additional District Judge-cum-Sessions Judge, Mahila Court, Visakhapatnam whereby the learned Judge while granting stay of operation of the order dated 17.08.2017 in D.V.C.No.13 of 2013 on the file of III Metropolitan Magistrate, Visakhapatnam directed the petitioners to pay Rs.1,50,000/- to 1st respondent herein on or before 19.01.2018 and continue to pay Rs.2,500/- per month from the date of order, in default of which petition shall stand dismissed.

3) Learned counsel for petitioners would try to argue that condition imposed is onerous inasmuch as the 1st petitioner is a labourer and he cannot afford to pay that much amount and hence the condition imposed may be modified.

4) It is seen that DVC No.13 of 2013 was filed by 1st respondent who is the wife of the younger brother of 1st petitioner herein seeking certain reliefs. One among them is prohibiting the petitioners from alienating the ground floor, vacate the same and hand over the ground floor to her. The trial Court after full-fledged enquiry passed an order directing the petitioners herein to allow the 1st respondent to stay in the ground floor of the petition schedule property. Aggrieved, the instant CrI.R.C. is filed.

5) It is seen that the whereabouts of the husband of 1st respondent are not known and she has no children. In those circumstances, considering her plight, the trial Court passed the order. In that view, the stay order passed in the Criminal Appeal imposing certain conditions cannot be found fault generally. However, considering the submission of learned counsel for petitioners that 1st petitioner ekes out his livelihood by doing coolie work and he has no sufficient means to comply with the order, condition imposed by the lower appellate Court is suitably modified so as to enable the petitioners to comply with the order.

6) In the result, this CrI.R.C. is partly allowed and the order dated 04.01.2018 in CrI.M.P.No.379 of 2017 in CrI.A.No.543 of 2017 is modified to the effect that the petitioners shall pay Rs.1,00,000/- (Rupees one lakh only) to the 1st respondent herein within six(6) weeks from the date of this order and also to pay the 1st respondent at the rate of Rs.1,500/- per month from 04.01.2018 by 10th of every succeeding month in default of which this order shall be deemed cancelled.

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

U.DURGA PRASAD RAO, J

Date: 14.03.2018

Note: Office to issue CC by tomorrow.

(b/o)
Murthy