

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1219 of 2018

ORDER:

This Revision is filed assailing the order dt.19-01-2018 in I.A.No.587 of 2018 in A.S.No.166 of 2017 of the V Additional District Judge, Tirupati, Chittoor District.

2. The petitioner herein is defendant in O.S.No.3 of 2011 on the file of the Senior Civil Judge, Srikalahasti.

3. The said suit was filed for recovery of money against the petitioner by respondent and it was decreed on 11-10-2017.

4. Assailing the same, the petitioner filed A.S.No.166 of 2017 before the 5 Additional District Judge, Tirupati. Along with the said appeal, he filed I.A.No.587 of 2017 under Order 41 Rule... C.P.C. to stay execution of the judgment and decree of the trial Court in O.S.No.3 of 2011.

5. After hearing the respondent, the said I.A.No.587 of 2017 was dismissed by the Court below. It held that the petitioner owed money to Syndicate Bank and petitioner's property was also sold through e.auction on 23-03-2017 and that it was therefore not desirable to stay execution of the decree. It directed the parties to get ready in the main appeal so that it can be disposed of in one or two months.

6. Assailing the same, this Revision is filed.

7. Learned counsel for petitioner contends that the appeal would become infructuous if stay of execution of the decree in O.S.No.3 of 2011 was not granted and that grave prejudice would be caused to him particularly when the appeal A.S.No.156 of 2017 is not being taken up for hearing by the V Additional District Judge, Tirupati.

8. Though learned counsel for respondent sought to sustain the order passed by the Court below, in view of the fact that the appeal itself would become infructuous if the execution is allowed to proceed pending appeal, in the facts and circumstances of the case, on condition of the petitioner depositing half of the decretal amount with costs to the credit of O.S.No.3 of 2011 on the file of the Senior Civil Judge, Srikalahasti within four (04) weeks from today, there shall be stay of all further proceedings including execution of the decree dt.11-10-2017 in O.S.No.3 of 2011 on the file of the Senior Civil Judge, Srikalahasti. In default of compliance with this order by petitioner, this order shall stand vacated automatically without further reference to this court.

9. The Civil Revision Petition is allowed accordingly. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 14-03-2018

Note : Issue C.C. tomorrow.

B/o.

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