

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION Nos. 1398 of 2018 and 1570 of 2018

COMMON ORDER:

C.R.P.No. 1398 of 2018 came to be filed under Section 115 of the Civil Procedure Code, assailing the judgment and decree dated 28.01.2018 passed in E.A.No. 113 of 2017 in E.P.No. 67 of 2016 in O.S.No. 30 of 2016 on the file of the I Additional Senior Civil Judge, Rajahmahendravarum, wherein the petition filed by the petitioner for grant of injunction restraining the 1st respondent, his men and persons claiming through him from further proceeding in pursuance of the *ex parte* decree dated 29.04.2016 passed in O.S.No. 30 of 2016, was dismissed. C.R.P.No. 1570 of 2018 came to be filed against the docket order dated 16.02.2018 in E.A.No. 1 of 2018 in E.P.No. 67 of 2016 in O.S.No. 30 of 2016 on the file of the I Additional Senior Civil Judge, Rajahmahendravarum, on the ground that when the claim petition is pending, directing the Sub Registrar to register the documents, amounts to double registration and is contrary to Section 22-B of the Registration Act.

2. The averments in the applications would go to show that in O.S.No. 30 of 2016, an *ex parte* decree dated 29.04.2016 came to be passed. The averments in the affidavit show that the 1st respondent herein filed O.S.No. 30 of 2016 against the 2nd respondent for specific performance of the suit. In the said suit,

the 2nd respondent remained *ex parte*. Thereafter, on 29.04.2016, the said suit was decreed. Basing on the said *ex parte* decree, the respondents filed E.P.No. 67 of 2016 in O.S.No. 30 of 2016 for execution of the decree. Pending E.P., the petitioners herein filed E.A.No. 112 of 2017 under Section 47 of the Civil Procedure Code, claiming a right over the property. E.A.No. 113 of 2017 came to be filed in E.P. 67 of 2016, requesting the court not to execute the decree, and in E.A.No. 289 of 2017, the petitioners sought for injunction, restraining the respondents from interfering with peaceful possession and enjoyment of the property, which was allowed. It is stated that against the order of injunction granted in E.A.No. 289 of 2017, C.M.A. 631 of 2018 came to be preferred before this Court, which was disposed of, directing the trial court to dispose of the claim petition, i.e., E.A.No. 112 of 2017 within a period of three months.

3. When the matter was taken up for hearing, both the counsel would submit that in view of the order passed in C.M.A.No. 631 of 2018, the present C.R.Ps may be disposed of, directing the trial court to dispose of E.A.No. 112 of 2017 in terms of the orders passed in the C.M.A., and further directing the respondents not to execute the decree, or in other words, to continue with the interim relief granted in the suit till the disposal of the E.A.

4. Having regard to the circumstances stated above, without going into the merits of the case, the present C.R.Ps are disposed of, directing the trial court to dispose of E.A.No. 112 of 2017 in

terms of the orders passed in C.M.A.No. 631 of 2018. Further, till the disposal of the said claim petition, the order passed in E.A.No. 1 of 2018, which is subject matter of challenge in C.R.P.No. 1570 of 2018 shall not be given effect to. Further, the respondents in the C.R.Ps shall not execute the decree till disposal of the E.A. It is needless to mention that E.A.No. 112/ 2017 shall be disposed of, uninfluenced by the observations made in the E.A. or in the C.R.Ps, if any, at the earliest.

5. Accordingly, C.R.Ps are disposed of. Miscellaneous applications pending, if any, shall stand closed.

13.07.2018
DMG



JUSTICE C. PRAVEEN KUMAR