

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.2443 of 2018

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India seeking a direction to the Court of V Additional District Judge, Kothagudem, Khammam District (lower appellate Court), to dispose of the appeal suit in A.S.No.3 of 2016 expeditiously. The appeal suit was filed by respondent No.1/appellant/plaintiff against the orders dated 25.10.2016 in EA.No.218 of 2013 in EP.No.358 of 2010 in O.S.No.139 of 2003 on the file of the Additional Senior Civil Judge, Kothagudem (trial Court).

Heard the arguments of the learned counsel for the petitioners/claim petitioners and the learned counsel for respondent No.1/appellant/plaintiff.

Learned counsel for the petitioners submits that the lower appellate Court was vacant as the Presiding Officer of the said Court was transferred and the learned Judge for Trial of Cases under SCs/STs (POA) Act-cum-Additional District Judge, Khammam, was placed incharge of the said Court from June, 2017 onwards. Endeavour of the learned counsel for the petitioners is for a direction to the lower appellate Court to dispose of A.S.No.3 of 2016 expeditiously. The petitioners are not parties to the said appeal suit. They

claim that they are the bonafide purchasers of the suit schedule property having purchased the same vide registered Sale Deed bearing No.356/2002, dated 20.08.2002 and have been in possession and enjoyment of the said property. They were not made as parties in the said suit O.S.No.139 of 2003, which was decreed exparte on 20.01.2005. Later E.P.No.358 of 2010 was filed 5 years after passing of the decree. Placing reliance on the docket orders dated 07.12.2017 to 02.06.2017, they submitted that the lower appellate Court is not disposing of the matter, as the Presiding Officer of the said Court was transferred and the incharge Presiding Officer is not taking up the appeal suit for disposal.

On the other hand, learned counsel for respondent No.1 submits that the Civil Revision Petition is misconceived, as the lower appellate Court is taking up the matters basing on the roster. Therefore, there is no need to give any direction to the lower appellate Court for expeditious disposal of the appeal suit.

In fact, as per Article 227 of the Constitution of India, the High Court can exercise the power of superintendence over all the Courts under its jurisdiction, only in cases where there is a failure of exercise of jurisdiction by the Court concerned. In the instant case, the petitioners are seeking a direction to the lower appellate Court to dispose of the above appeal suit expeditiously. Such a direction cannot be given to

the Courts below without knowing the priority of the cases before the said Courts. However, the petitioners are given liberty to make a representation before the lower appellate Court for taking up A.S.No.3 of 2016 on priority basis. On such representation, the lower appellate Court may consider for the disposal of the A.S.No.3 of 2016.

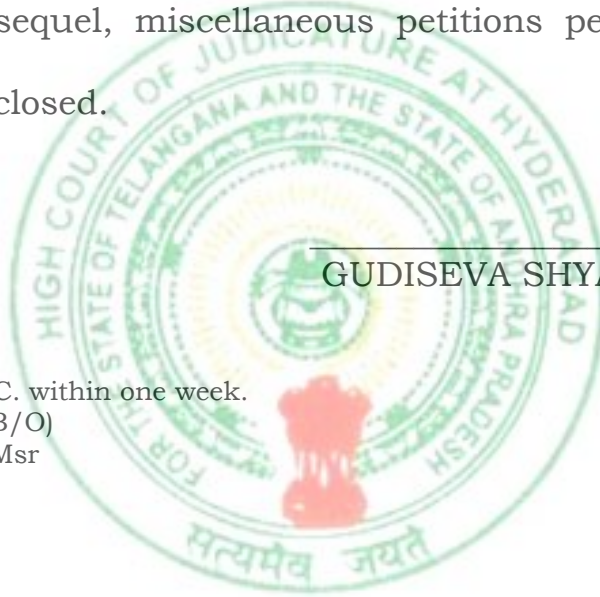
With the above observations, the Civil Revision Petition is disposed of. No order as to costs.

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

05.10.2018.

NOTE: Issue C.C. within one week.
(B/O)
Msr

GUDISEVA SHYAM PRASAD, J



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Msr