

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

I.A.Nos.1 and 3 of 2018

In/and

A.S.No.954 of 2018

COMMON JUDGMENT: {Per Hon'ble Sri Justice Ramesh Ranganathan }

This appeal is filed along with I.A.No.1 of 2018 seeking leave to appeal and I.A.No.3 of 2018 seeking to condone the inordinate delay in preferring the appeal.

Sri A.K.Narasimha Rao, learned counsel for respondents 1 to 7, would submit that after a preliminary decree was passed, a final decree was also passed on 06.03.2013; a petition was filed to execute the decree; several individual claimants had filed claim petitions opposing such execution; and the appellants herein, instead of filing their claim petition, have approached this Court, with an inordinate delay, seeking leave to prefer an appeal against the preliminary decree.

As the appellants herein claim to have purchased plots of small extents totalling to 1003 square yards, and as the subject matter of the Suit is around 15½ acres of land, we see no reason either to grant leave or to condone the inordinate delay in preferring the appeal, as the appellants have the remedy of filing claim petitions, under Order XXI Rule 58 C.P.C, in the execution proceedings pending before the Court below.

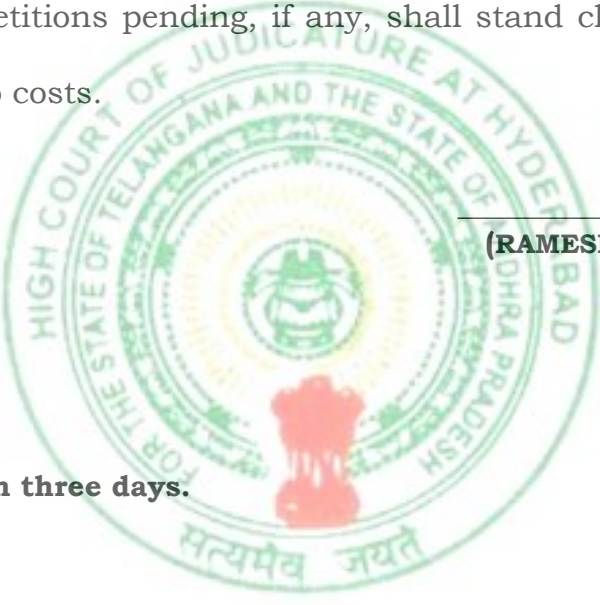
Sri Rajagopallavan Tayi, learned counsel for the appellants, would submit that the appellants herein would file their claim petitions, in the execution proceedings pending before the Court below; and the interim stay granted by this Court earlier may be extended by a further period of four weeks to enable them to do so.

Sri A.K.Narasimha Rao, learned counsel for respondents 1 to 7, would submit that possession, of an extent of Acs.6.00 of land which fell to the share of respondents 1 to 7, has already been delivered to them on

03.05.2018 under a panchanama, long before the interim order was passed by this Court on 26.06.2018.

Suffice it therefore, in case the appellants are still in possession of the plots, to direct that they shall not be dispossessed from the total extent of 1003 square yards of land for a period of four weeks from today, to enable them to file their claim petitions, in the pending execution proceedings, in the meanwhile. Needless to state that, in case no such petition is filed within the aforesaid period of four weeks, execution proceedings may go on.

Subject to the aforesaid observations, I.A.Nos.1 and 3 of 2018 are dismissed and, consequently, the appeal shall stand rejected. Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

 (RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

07th August, 2018

Note: Issue C.C in three days.

JSU

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Date: 07.08.2018