

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.NO.496 OF 2014

ORDER:-

The revision petition is filed questioning the order, dated 08-10-2013 passed in I.A.No.649 of 2013 in C.M.A.No.Nil/2013. The unnumbered CMA was filed questioning the order of injunction passed in I.A.No.906 of 2009 in O.S.No.726 of 2009 on the file of the court of Principal Senior Civil Judge, Warangal.

2. The application I.A.No.906 of 2009 was filed for a temporary injunction by the plaintiffs against the respondent. The matter was contested on merits and the court below allowed the application and an injunction order was granted. The CMA which has been filed questioning the order was filed with a delay of 137 days. Therefore, an application I.A.No.649 of 2013 was filed to condone this delay of 137 days in filing the C.M.A. The court below after examining the matter came to a conclusion that the delay cannot be condoned. This order was passed on 08-10-2013. This order is questioned in the revision which was filed in 2014. After the hearing on 20-02-2014 the matter was listed on 26-11-2016. No stay was granted also.

3. This court has heard both the learned counsel appearing for the revision petitioners and respondent.

4. The learned counsel for the respondent submits that entertaining this application and passing further orders are not really necessary at this stage. The learned counsel for the petitioners, on the other hand, contends that if the order passed is not challenged, the rights that have accrued to the respondents/defendants in the suit and the petitioners herein would be prejudiced and that the revision petition should be heard and disposed of.

5. This court is of the opinion that the order passed in I.A.No.906 of 2009 in O.S.No.726 of 2009 is only an interim order passed pending decision in the suit. Since the suit itself is being taken up for hearing, this court is of the opinion that no useful purpose would be served now in deciding the revision petition. Going into the merits or demerits of the injunction order that is passed in I.A.No.906 of 2009 after condoning delay at this stage when the trial in the suit has progressed is not correct. As rightly pointed out by the learned counsel for the respondent, the interim order in I.A.No.906 of 2009 was passed in 2012 in an injunction application that was moved in 2009. The said order was also passed on merits. Hence, this court is of the opinion that in view of the passage of time, interfering at this stage is not really called for. The rights of the both the parties can be worked out on merits in the suit.

Therefore, the Civil Revision Petition is dismissed. The revision petitioners herein, who are the defendants in the suit, are at liberty to raise all the legal pleas that are available to them. It is made clear that the legal pleas and defences that are available are not in any way taken away by this order of dismissal. The lower court shall decide the suit on a priority preferably within a period of six months from today. Both the learned counsel agree that their parties will cooperate for disposal of the case. The court below is directed to dispose of the matter without in any way being influenced by what is stated in this order. No costs. Miscellaneous Petitions pending, if any, shall stand closed in consequence.

26-11-2018
TSNR

D.V.S.S.SOMAYAJULU,J

