

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.5298 of 2018

ORDER:

Heard Sri A.Venkatesh, Learned Counsel for the petitioner, and Sri E.Poornachandra Rao, Learned Counsel for the respondent. This revision, under Section 115 CPC, is filed against the order passed by the III Senior Civil Judge, City Civil Court, Secunderabad, in E.P.No.201 of 2015 dated 14.08.2018.

The petitioner herein is the judgment-debtor who has suffered an ex-parte decree in O.S.No.802 of 2014 on the file of the Additional Civil Judge, Hubballi, in the State of Karnataka. Since the properties of the petitioner herein are located at Hyderabad, the E.P. came to be transferred to the Court of the III Senior Civil Judge, Secunderabad and was numbered as E.P.No.201 of 2015. It is the petitioner's case that they have filed an application, before the Court at Hubballi, to set aside the ex-parte decree along with an application to condone the delay of 168 days in filing the application to set aside the ex-parte decree.

It is submitted by Sri A.Venkatesh, Learned Counsel for the petitioner, that the aforesaid applications are still pending adjudication before the Court at Hubballi; and that the petitioner now seeks stay of all further proceedings in the E.P till the applications, filed by the petitioner, are decided by the Court at Hubballi.

It should be borne in mind that this Court does not exercise judicial superintendence over the Courts at Hubballi which fall within the State of Karnataka; and cannot, therefore, direct the Court at Hubballi to decide the I.A, filed by the petitioner to set aside the ex-parte decree, within a specified time frame. Since these applications are said to be pending before the Court at Hubballi for the past three years from 2015 onwards, it is for the petitioner to have the

applications decided early; and, on the failure of the Court at Hubballi to decide the applications at an early date, to avail their judicial remedies before the Karnataka High Court. Granting stay of all further proceedings in the E.P till the applications filed by the petitioners are finally decided by the Court at Hubballi, would cause substantial prejudice to the respondent herein.

I consider it appropriate, in such circumstances, to grant stay of all further proceedings in E.P.No.201 of 2015 on the file of the III Senior Civil Judge, City Civil Court, Secunderabad till 15.11.2018. In case the petitioner is able to have the ex-parte decree set aside in the interregnum, it is open to them to produce a copy of the said order passed by the Court at Hubballi before the Executing Court at Secunderabad, in which case the execution proceedings cannot be continued thereafter. If, on the other hand, the petitioner is not able to have the ex-parte decree set aside in the interregnum, it is made clear that the Court below shall proceed and hear the E.P. in accordance with law without awaiting orders to be passed in the application filed by the petitioner before the Court at Hubballi. The amount deposited to the credit of the E.P. shall remain with the Executing Court, but shall however not be disbursed to the respondent herein till 15.11.2018.

The Civil Revision Petition is, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date:12.10.2018.
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