

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

CIVIL REVISION PETITION No.4 OF 2017

ORDER:

This is a revision filed against the docket order dated 27.12.2016 passed in I.A.No.1429 of 2016 by the Principal Junior Civil Judge, Amalapuram.

Initially, an ex parte injunction was granted in I.A.No.1320 of 2016 by the Principal Junior Civil Judge after being convinced that it is a fit case for grant of ad interim injunction. The matter was posted to 15.12.2016, on which date, the injunction was extended till 27.12.2016. On that day, learned counsel for the petitioner was not ready and was represented by another counsel. At that stage, the Court below felt that as the petitioner is not reporting ready, there is no ground to extend the injunction and hence, the petition to extend the injunction was dismissed. It is this order that is assailed in this revision.

Notices were served on the respondents, but there is no representation. Hence, the CRP is taken up for disposal.

Heard learned counsel for the petitioner. It is a fit case warranting interference of this Court, as no opportunity was granted to the petitioner to explain the reason why the counsel was not ready. This Court finds that the order that is impugned in the revision is cryptic and no reasons were given.

While agreeing with the fact that Courts should not countenance or allow delays after an *ex parte* injunction is obtained, Courts also have a duty to render justice. If the cause given by the counsel for the petitioner is a genuine one, such as, the counsel suffered an accident, etc., the Courts can grant

extension of time. Similarly, if there is bereavement in the family also, it may be a valid reason for grant of extension of injunction. These are just examples that are quoted. In this case, the impugned order was passed summarily. If the lower Court is of the opinion that the counsel, who obtained injunction was taking advantage of the same, an order should have been passed after putting the petitioner on notice. This Court feels that the lower Court should have given an opportunity, however, small it may be, to the petitioner before passing the impugned order.

In the facts and circumstances of the case, this Court was also pleased to grant an interim injunction on 04.01.2017 which will be in force till the matter is heard afresh by the lower Court.

In view of the above discussion, the Civil Revision Petition is allowed setting aside the impugned order. The lower Court is directed to hear the matter afresh and dispose of the injunction application on merits, preferably, within a period of ten days from the date of receipt of a copy of this order uninfluenced by the observations made in this order.

Miscellaneous petitions, if any, pending shall stand closed.

D.V.S.S.SOMAYAJULU, J

Date : 05.01.2018
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