

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5651 of 2018

ORDER:

This revision is filed by the petitioners/ defendants 3 to 6, aggrieved by the order dated 12.03.2018 in I.A.No.51 of 2018 in O.S.No.20 of 2018, passed by the Junior Civil Judge, Atmakur, SPSR Nellore District.

2. Heard the learned counsel for the petitioners before admission and before ordering notice to the respondents and perused the impugned order.

3. Leave about the fact that there is a remedy of the statutory appeal against the temporary injunction ex parte order of injunction under Order 43 C.P.C. to invoke, there is other remedy efficaciously available by filing counter to vacate the injunction petition to modify including by invoking order 39 Rule 4 CPC. Undisputedly, such an application with counter-affidavit stated filed in seeking to vacate the injunction.

4. Having regard to the above, once there is an ex parte order of injunction and the other side filed counter, the trial Court cannot cause delay in disposal, that too, when it mandated by Order 39 Rule 3A CPC.

5. Accordingly, the Civil Revision Petition is disposed of, directing the learned Junior Civil Judge (regular or in-charge, as the case may be) to dispose of the injunction application, on merits, along with the injunction vacate petition, within a period of 30 days from the date of receipt of copy of this order, at any cost.

6. Consequently, miscellaneous petitions, if any shall stand closed. No order as to costs.

Date:28.09.2018
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JUSTICE Dr. B.SIVA SANKARA RAO

