

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.4116 OF 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India challenging the docket order in I.A.No. 139 of 2017 in A.S.No.1 of 2017 dated 31.07.2017 passed by the Senior Civil Judge, Siricilla.

The respondent herein filed O.S.No.22 of 2017 for declaration and perpetual injunction relating to Avathar Meher Baba Charitable Trust, Tettekunta Village and the same was decreed by the Junior Civil Judge's Court at Vemulawada, by taking advantage of the said judgment and decree, the respondent is trying to enter unlawfully into the trust affairs. I.A.No. 139 of 2017 is filed by the petitioner to suspend the judgment and decree in O.S.No.22 of 2009. The Trial Court, dismissed the petition assigning various reasons, more particularly, adverting to Order XLI Rule 5(3) C.P.C, that the main petition itself is not maintainable and sought for suspension of judgment and decree in O.S.No.22 of 2009.

Order XLI Rule 5(3) C.P.C deals with grant of stay of execution of the decree and judgment. Therefore the relief claimed before the Appellate Court is not within the ambit of Order XLI Rule 5(3) C.P.C. Hence, on this ground alone, the petition is not maintainable and the same is liable to be dismissed.

However, the petitioner is at liberty to file appropriate application for suspension of operation of judgment and decree in O.S.No.22 of 2009 before appropriate Court, during pendency of

A.S.No.1 of 2017 and on filing such application, the Senior Civil Judge, Sircilla is directed to dispose of such application as expeditiously as possible, in any event, not later than one month from the date of receipt of copy of this order.

In the result, the civil revision petition is dismissed, without touching the merits of the case.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:08.02.2018

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