

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.5795 of 2018

ORDER:

The grievance of petitioner/appellant is that the lower appellate Court has not taken up the hearing in I.A.No.289 of 2018 and kept the matter as part-heard.

2. Learned counsel for petitioner would submit that petitioner filed petition in CFR No.429 on 23.8.2018 for advancement of the hearing in I.A.No.289 of 2018 which was returned and the hearing in I.A. No.289 of 2018 is not taken up. He would submit that the said I.A., is filed seeking interim stay pending A.S.No.171 of 2018 and in the meanwhile, the respondents have filed an Execution Petition before the trial Court and the same is coming up for hearing in E.P.No.40 of 2018 before the Senior Civil Judge, Chirala.

3. Learned counsel for respondents has not disputed the factum of filing of E.P.No.40 of 2018 by respondents.

4. As can be seen, O.S.No.14 of 2009 was filed for declaration and for possession, by respondent/plaintiff and the same was decreed on 02.06.2018. Aggrieved petitioners/appellants filed A.S.No.171 of 2018. Along with appeal, I.A.No.289 of 2018 is filed seeking stay of operation of the decree pending appeal, wherein, the matter was posted as part-heard and it appears from the copy of the docket order, the matter was posted from 27.9.2018 to 04.10.2018 for further hearing. Since respondent/plaintiff filed E.P.No.40 of 2018 before the trial Court and the same is coming up for consideration, it is apposite for the lower appellate Court to hear and pass the orders on merits in I.A.No.289 of 2018, which was filed on 08.08.2018 itself.

5. Therefore, this Civil Revision Petition is allowed and the learned III Additional District Judge, Ongole, is directed to hear both the parties in I.A.No.289 of 2018 and pass orders on merits, within two weeks from the date of receipt of a copy of this order. Respondent/plaintiff shall not proceed with E.P.No.40 of 2018 pending on the file of the Senior Civil Judge, Chirala, till the orders in I.A.No.289 of 2018 are passed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 26-10-2018.

U.DURGA PRASAD RAO, J

Note: Office is directed to send a copy of this order by tomorrow itself to the concerned Court.

(b/o)
Slk

