

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.6967 OF 2017

ORDER :

This Civil Revision Petition is filed by the petitioners/Judgment Debtors stating that an exparte decree is passed on 26.07.2016 in O.S.No.49 of 2016. That the petitioner filed I.A.No.652 of 2017 for condoning the delay of 463 days in filing the petition under Order 9 Rule 13 CPC for setting aside the exparte Judgment and decree passed against them and also for stay of the execution of judgment of decree. Both the applications are pending before the trial Court, but the trial Court proceeding with the EP without deciding the same. Aggrieved by the same, present Civil Revision Petition is filed.

Heard learned counsel for the petitioners, who submits that without deciding the petition under Section 5 of Limitation Act and also an application under Order 9 Rule 13 CPC, the Court below cannot proceed with the Execution Petition.

It is to be seen that as on today, no order passed in the EP. It is only on apprehension of the petitioners that orders will be passed in the EP before deciding the applications filed by the petitioners, the present Revision Petition is filed.

Normally, if the petitioners cooperate in disposal of the applications filed by them, Court below has to decide the same before proceeding with the EP. If petitioners do not cooperate, nothing prevents the executing Court for proceeding with the EP. As already observed above, this Revision Petition is filed only on

apprehension and same is premature. In view of same, I do not see any merit in entertaining this Revision Petition.

With the above observations, this Civil Revision Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

19-02-2018
kvs

A.RAJASHEKER REDDY, J



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