

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.6988 OF 2017

ORDER :

This Civil Revision Petition is filed by the petitioners/defendants/respondents 6 to 12 against docket order dated 11.09.2017 in E.P.No.12 of 2008 in O.S.No.101 of 1997 wherein and whereby the Executing Court deputed the Ameen for registration of the document and the decree holder was directed to bear the registration expenses. The Ameen is also directed to return the documents after registration.

2. Heard learned counsel for the petitioners and learned counsel for the respondents/Decree Holders.

3. Learned counsel for the petitioners submits that though the trial Court decreed the suit on 01.02.2007, appeal i.e., A.S.No.135 of 2007 was preferred and the same dismissed on 19.01.2012 and aggrieved by the same, S.A.No.533 of 2012 was preferred before this Court and the same was admitted on 16.05.2012 and granted stay of execution of decree in appeal dated 19.01.2012 subject to payment of suit costs and appeal costs, within a period of four weeks, but petitioner could not deposit the said costs and when memo is filed by the respondents/plaintiffs/decree holders on 08.08.2017

informing the same, no opportunity was given to the petitioners and passed orders on 11.09.2017.

4. On the other hand, learned counsel appearing for the respondents/decreed holder submits that after memo was filed, notice was ordered. He submits that learned counsel appearing for petitioners as well as respondents before the trial Court, were given notice on 03.08.2017 and notice was also issued to JDR i.e., petitioners/judgments debtor on 08.08.2017 and when there was no response, matter was posted to 16.08.2017 for filing non-judicial stamps and again adjourned to 22.08.2017 for filing draft sale deed. Again on 22.08.2017, matter was adjourned to 28.08.2017 for filing of draft sale deed. Thereafter, on 28.08.2017 again time sought for filing of draft sale deed and adjourned to 05.09.2017. On 11.09.2017, impugned order is passed, as such, petitioners have participated in the EP proceedings, cannot feign ignorance to the proceedings by the Executing court. He submits that sufficient opportunity was given to the petitioners. Even when conditional stay was granted in Second Appeal, the petitioners could not fulfill the said condition, even after lapse of five years, as such, Court below rightly issued impugned proceedings.

5. In this case, it is to be seen that the suit O.S.No.101 of 1997 was decreed by judgment and decree dated

01.02.2007 and same was confirmed in Appeal. Execution Petition was filed in the year 2008 and petitioners participated in the EP proceedings. Petitioners also filed Second Appeal No.533 of 2012. Admittedly stay was granted, subject to condition of payment of costs of suit and appeal costs, within four weeks from the date of order itself. The said time expired long back and respondents/decreed holders filed memo dated 18.08.2017 stating that no stay is operating and petitioners were put on notice. Even after issuing notice to the petitioners in the EP and after the matter underwent several adjournments, impugned order was passed on 11.09.2017. As such, the contention of the learned counsel for the petitioners that no opportunity was given to the petitioners after filing of Memo dated 18.08.2017 informing to executing court that there is no stay is operating, cannot be accepted. The docket order filed in EP also goes to show that notice was issued to petitioners on 08.08.2017 and even before that notice dated 03.08.2017 was also given to the counsel appearing on either side before the Court below. A copy of the same is also produced before this Court and same is not disputed by the learned counsel for the petitioners. Thereafter, the matter was adjourned to 16.08.2017, 22.08.2017, 28.08.2017 and 05.09.2017 and the impugned docket order was passed on

11.09.2017 and thereafter sale deed is executed on 09.10.2017. As such, I do not see any infirmity or illegality in the order passed by the Court below. Though the learned counsel for the petitioners state that application was filed in the Second Appeal for extension of time, but as on today, time is not extended, as such, even on that ground also, it cannot also be said that order passed by the Court below is erroneous. The narration of above facts goes to show that the petitioners are deliberately dragging on the proceedings so as to delay the proceedings in EP before the Court below. Connected CRP No.6817 of 2017 filed against ordering delivery of possession is also dismissed today. In view of the same, I do not see any infirmity in the order passed by the Court below.

Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed.

A.RAJASHEKER REDDY, J

24-01-2018
kvs

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