

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION NO. 7579 OF 2017

ORDER:

1. The petitioner is the Judgment-Debtor in E.P.No.29 of 2017 in O.S.No.9 of 2013 on the file of the Principal Junior Civil Judge, Sullurpet. The respondents herein filed the said suit for recovery of property from the petitioner herein. The Decree was passed on 24.11.2016 and it appears that against the said Judgment and Decree, the petitioner herein filed A.S.No.10 of 2017 along with an application in I.A.No.16 of 2017 seeking stay of further proceedings pursuant to the Judgment and Decree in O.S.No.9 of 2013. The said application seeking stay before the lower Appellate Court is pending. When the said application is pending, the petitioner herein filed E.A.No.46 of 2017 seeking stay of all further proceedings till disposal of A.S.No.10 of 2017 on the file of the VII Additional District Judge, Guduru. When the said application was dismissed by the learned Principal Junior Civil Judge, Sullurpeta, who is executing the Decree, by order dated 21.11.2017, the present Civil Revision Petition is filed.

2. A perusal of the order discloses that the Execution Petition was filed for delivery of possession of first floor of suit property and costs. It appears that I.A.No.16 of 2017 filed in

A.S.No.10 of 2017 is coming up for enquiry. When the said application is pending, the present application is filed before the executing Court seeking stay of further proceedings in execution. The Court dismissed the said application with the following observation:

“The petitioner instead of proceeding in the said stay petition for obtaining stay against the judgment passed by this Court, again filed petition before the court for the similar relief. This court cannot stay the execution proceedings basing on the decree passed by itself. It is obligatory on the part of petitioner to obtain stay from the appellate court. Moreover, the raising of the allegations with regard to conduct of my predecessor in the present petition is highly condemnable. Further more the petition is devoid of merits and same is liable to be dismissed.

In the result, the petition is dismissed.”

3. This Court is in complete agreement with the said order passed by the Trial Court and sees no ground to interfere with the said order.

4. Learned counsel for the petitioner submits that I.A.No.16 of 2017 is not being disposed of by the learned VII Additional District Judge, Guduru and if it is disposed of, there is no need

for filing the present application and the consequential Civil Revision Petition.

5. Learned counsel for the petitioner further submits that if the execution proceedings are taken up during the pendency of the said I.A.No.16 of 2017, the said application would become infructuous.

6. In the circumstances, the VII Additional District Judge, Guduru is directed to take up I.A.No.16 of 2017 and pass appropriate orders in accordance with law, within a period of two weeks from the date of receipt of a copy of this order and it is needless to observe that the petitioner/defendant shall co-operate in disposal of the said I.A.No.16 of 2017 before the lower Appellate Court.

7. Subject to the above observations, the Civil Revision Petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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A. RAMALINGESWARA RAO,J

Date: 19.3.2018

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