

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.202 of 2019

ORDER:

This Revision is filed by the petitioner assailing the order dt.20.11.2018 in I.A.No.1202 of 2018 in I.A.No.315 of 2017 in A.S.No.64 of 2017 of the IV Additional District Judge, Ranga Reddy District at L.B. Nagar.

2. Petitioner herein is the plaintiff in O.S.No.902 of 2015 on the file of the IX Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar.

3. The said suit was filed for eviction of the respondent from the suit schedule property.

4. After contest, the suit was decreed on 07.12.2016.

5. Assailing the same, respondents 1 & 2 filed A.S.No.64 of 2017 before the IV Additional District & Sessions Judge, Ranga Reddy District at L.B. Nagar.

6. Along with the Appeal, they filed I.A.No.315 of 2017 for stay of all further proceedings including execution proceedings pursuant to judgment and decree in O.S.No.902 of 2015.

7. The said I.A., was allowed on 24.07.2018 subject to deposit/payment of suit costs before the Court below on or before 28.04.2018, failing which the said stay order stood automatically vacated.

8. The respondents 1 and 2 did not comply with the order of deposit of costs within the time specified.

9. On 12.09.2018 they filed I.A.No.1202 of 2018 seeking enlargement of time for payment of suit costs.

10. In the affidavit filed in support of the said application, they stated that the 1st appellant could not deposit the amount within time due to ill-health and due to personal and family problems, and that he was ready to deposit the same immediately, if time is enlarged.

11. Counter affidavit was filed by the petitioner opposing the extension of time. It was contended therein that the reasons given by respondents 1 and 2 are general in nature and they do not show the real reason in not paying the suit costs. It was also stated that the application for enlargement of time is not maintainable because it was filed after the expiry of period fixed by the lower appellate Court i.e., after 22.04.2018.

12. By order dt.24.10.2018, the Court below allowed I.A.No.1202 of 2018. It held that there was no pleading by the petitioner that respondents 1 and 2 were not suffering from ill-health, that the judgment and decree was being challenged in an appeal, which is pending; even the Execution Petition filed by the petitioner is also pending; and if the execution is proceeded with pending appeal, great hardships would be caused to respondents 1 and 2. It therefore exercised its discretion and extended the time for deposit of

costs to 27.11.2018 with the same conditions as were contained in the order dt.24.07.2018.

13. Assailing the same, this Revision is filed.

14. Though counsel for petitioner contended that the Court below could not have extended the time fixed earlier for deposit of costs by respondents 1 & 2, and no valid reasons are assigned by respondents 1 & 2 for not making such deposit within the time granted by the Court, I am of the opinion that under Section 148 of C.P.C., such power is vested in the Court below and so it cannot be said that the Court below has no jurisdiction to extend time for complying with its conditional order.

15. As rightly observed by the Court below if for the short delay in complying with the conditional order of payment of costs, stay of execution is vacated, respondents 1 and 2 would be put to grave and irreparable loss.

16. In these circumstances, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

17. Accordingly, this Civil Revision Petition is dismissed at the admission stage. No order as to costs.

18. Consequently, Miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

05th February, 2019.

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