

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.6981 of 2018

ORDER:

Heard the learned counsel for the petitioners and Sri S.V.V.Srinivas, learned counsel for the respondents.

2. This Revision Petition is filed challenging the docket order dt.27-09-2018 in E.P.No.10 of 2016 in O.S.No.308 of 2004 of the XIV Additional Chief Judge, City Civil Court, Hyderabad.

3. Petitioners herein are the J.Drs.

4. The 1st respondent-D.Hr. filed the said suit for recovery of money and obtained a decree on 31-03-2011 from the XIV Additional Senior Civil Judge (FTC), City Civil Court, Hyderabad, against petitioners.

5. Challenging the same, petitioners herein preferred C.C.C.A.No.145 of 2012 before this Court.

6. On 11-12-2012, this Court passed the following order:

“There shall be interim stay subject to the petitioners depositing 1/3rd of the decretal amount and proportionate costs and interest within a period of eight (8) weeks from today, failing which the interim stay stands vacated. The respondent No.1 is permitted to withdraw the deposited amount.”

7. The said order was not complied with and therefore in terms of the said order, the stay of execution of the decree of the Court below stood vacated.

8. The respondents then filed E.P.No.10 of 2016 before the Court below to bring certain properties of the petitioners to sale.

9. The said E.P. was filed on 03-12-2016. Even after receiving notice in the E.P., the petitioners did not file a counter. They were called absent on 27-09-2018 and set *ex parate*. A warrant under Order 21 Rule 43 CPC was issued by the Court below, returnable by 29-11-2018.

10. Assailing the same, this Revision Petition is filed.

11. Learned counsel for the petitioners contended that after passing of the interim order in C.C.C.A.No.145 of 2012 on 11-12-2012 in C.C.C.A.M.P.No.610 of 2012, the appeal itself has not been listed and the interim stay orders were not received. It is stated that on persuasion, certified copy of the interim order was provided by the then Standing Counsel, HMDA. It is also stated that when the Standing Counsel was contacted, he suggested to file an application for grant of further extension of time and an application I.A.No.1 of 2014 had been filed; thereafter, there was no communication from the then Standing Counsel and no orders were received from the Court, and later the services of the then Standing Counsel had been dispensed with. It is further stated that when the E.P. was listed on 27-09-2018, the petitioners' Standing Counsel could not appear before the trial Court since he was held up in another Court and it resulted in passing of the impugned order. It is contended that since the 1st

petitioner is a Government body, if properties attached were put for sale, petitioner would suffer irreparable loss and hardship which cannot be compensated by any means.

12. Learned counsel for the petitioners reiterated the same.

13. Learned counsel for the respondents however contended that it was the petitioners who had filed C.C.C.A.No.145 of 2012 and obtained conditional order of stay of further proceedings pursuant to the decree in the suit O.S.No.308 of 2004 on depositing 1/3rd of the decretal amount with proportionate costs and interest within eight weeks; that the said order itself contained a default clause that if the amount is not deposited, the stay would stand vacated; and the petitioners therefore cannot plead ignorance of the said order blaming the counsel on record, since it was the duty of the employees of the petitioner to obtain the order copy within the time specified and comply with it. He also pointed out that the application I.A.No.1 of 2014 seeking extension of time in C.C.C.A. was never pursued by the petitioners or their counsel and it continues to be pending. He further stated that when the petitioners did not appear in person or through their counsel in the Court below and did not even file a counter in the E.P. No.10 of 2016, they were set *ex parte* and the impugned order was rightly issued.

14. I have noted the contentions of both sides.

15. Having obtained an interim order on 11-12-2012 in C.C.C.A.M.P.No.610 of 2012 in C.C.C.A.No.145 of 2012, it was incumbent on the petitioners to comply with the same, more particularly, because it contained a default clause and the stay would automatically get vacated, if the order is not complied with. Merely blaming the counsel on record would not suffice to explain the laches and negligence on the part of the petitioners in complying with the said order for seven years. Even thereafter, having filed I.A.No.1 of 2014 to extend time for complying with the interim order dt.11-12-2012 in C.C.C.A.M.P.610 of 2012, it appears that the petitioners did not pursue it and obtain any orders of extension of time. The 1st respondent rightly filed E.P.No.10 of 2016 for execution of the money decree obtained by him and even in the E.P., the petitioners had not filed a counter and were set *ex parte* and because of their absence as well as their counsel's absence on 22-09-2018, they were set *ex parte* and the impugned order was passed.

16. The above conduct of the petitioners indicates gross negligence in discharge of their functions as public authorities and in complying with Court orders.

17. However, since it is contended that prejudice would be caused to the petitioners, if these properties are sold, as a last chance, one week time from today is granted to the petitioners to deposit the entire E.P. amount claimed in E.P.No.10 of 2016 in O.S.No.308 of 2004 before the Court below, after deducting amounts, if any, already

deposited in the E.P. by the petitioners. In default of the same, the Civil Revision Petition shall stand dismissed.

18. Accordingly, the Civil Revision Petition is disposed of subject to the above conditions with costs of Rs.5,000/- (Rupees Five Thousand only) to be paid by the petitioners to the 1st respondent.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-01-2019

Note:-

Issue C.C. tomorrow.

B/o.

kvr