APHC010456432026

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI **[3311]**

(Special Original Jurisdiction)

Tuesday, the twenty seventh day of October two thousand and twenty six

Present

The Honourable Ms. Justice B. S. Bhanumathi

Civil Revision Petition No.2417 of 2026

Between:

Smt. Nai Rokia Begum, W/o. late Meinuddin Khan, Occ: House wife, aged about 74 years, R/o. D. No.8-1083, Bellary Road, Kadapa Town, Kadapa district.

….Petitioner / defendant

and

Paritala Sreenivasulu, S/o. Paritala Subbaiah, Occ: Agriculturist, Age: 53 years, R/o. Venkatapuram village, Ramagiri mandal, Ananthapuramu district.

….Respondent / plaintiff

Counsel for the petitioner:

1. K. Srinivas

Counsel for the respondent:

None

The Court made the following:

ORDER:

This revision petition is filed under Article 227 of the Constitution of India against the order, dated 25.07.2023, in I.A. No. 217 of 2020 in O.S. No. 44 of 2020 on the file of the Court of the Principal District Judge, Ananthapuramu, filed under Order XXXIX, Rules 1 and 2 C.P.C., by which, the interim order earlier granted for a limited period, being extended from time to time, was extended until further orders and the interim application was closed without prejudice to the rights of both the parties, subject to the result in the main petition.

2. The facts, briefly stated, are as follows:

a. The respondent filed a suit against the revision petitioner in O.S. No. 44 of 2020 for specific performance of the agreement of sale, dated 05.11.2016, and delivery of possession of the plaint schedule property to the plaintiff. Along with the suit, I.A. No. 217 of 2020 was filed to restrain the respondent / defendant from alienating the petition / plaint schedule property to third parties pending disposal of the suit.

b. On 11.12.2020, while ordering notice to the respondent / defendant, the trial Court, having found *prima facie* case and to avoid multiplicity of proceedings etc., by observing that already a sum of Rs.50 lakhs had been paid, granted *ex parte* interim injunction restraining the respondent / defendant from alienating or creating third party interest in the plaint schedule property till 29.12.2020. Thereafter, the interim order was extended on every date of adjournment till the next date of adjournment. That is how the interim order was extended for more than twenty five times, even after filing of the counter by the respondent and the matter was ripe for enquiry for about fifteen times. Every time, the interim order was extended on a separate petition in I.A.

No. 217 of 2020. That is how on 25.07.2023 also, on a separate petition filed for extension of the interim order, by allowing that separate petition, the interim order was extended until further orders and the petition in I.A. No. 217 of 2020 was closed without prejudice to the rights of both parties subject to the result in the main petition, i.e., I.A. No.217 of 2020.

c. For the purpose of clarity, the order, dated 25.07.2023, is excerpted here below:-

> "Extension petition filed. Heard. Allowed. Interim injunction is extended until further order. This petition is closed without prejudice to the rights of both parties subject to the result in the main petition."

3. Aggrieved by the order, dated 25.07.2023, this revision petition was filed.

4. Despite service of notice on the respondent as well as his counsel before the trial Court, no appearance has been made.

5. Heard the learned counsel for the petitioner.

6. Firstly, he submitted that since the petition in I.A. No. 217 of 2020 had not been decided on merits, C.M.A. was not filed and that this Court has jurisdiction under Article 227 of the Constitution of India in view of the irregularity committed in passing the impugned order.

7. Nextly, he submitted that instead of considering the merits of the petition, on hearing the petitioner and the respondent, basing on the affidavit, counter and the documents, if any, filed by either party, the trial Court erred in closing the petition and not calling I.A. No. 217 of 2020

for hearing despite recording that extension of the interim order is subject to the result in I.A. No. 217 of 2020.

8. Though the interim order was extended until further orders by passing a separate order on the petition filed seeking extension of the previous interim order, the trial Court committed a serious error in closing the petition without posting the main petition for hearing to a next date. It is astonishing that the trial Court made an observation that the petition is closed subject to the result in the main petition, but no date was given for enquiry in the main petition. It is not clear as to whether the main petition is closed or the petition filed seeking extension of interim order was closed. It appears that I.A. No. 217 of 2020 was meant to be closed by the expression “this petition is closed”, because when extension petition was heard and allowed, there is no need to close that petition. Since extension petitions were being filed, the expression “main petition” used in the impugned order must be referring to I.A. No. 217 of 2020. Thereby, it is I.A.No.217 of 2020 must be understood to be closed from a reading of the above order. If it is so, how no date of enquiry was given by adjourning the petition in I.A. No. 217 of 2020 to another date. Unless it is heard, where is the question of closing the petition subject to the result in that petition. Under these circumstances, the order impugned in the revision is illegal for closing the petition without hearing both the parties, and is liable to be set aside with a direction to the trial Court to hear both parties and decide the petition afresh.

9. Accordingly, the Civil Revision Petition is allowed. The impugned order, dated 25.07.2023, in I.A. No. 217 of 2020 is set aside to the extent of closing the petition and the trial Court is directed to dispose of the petition in I.A. No. 217 of 2020 within one (1) month from the date of

receipt of a copy of this order, after hearing both the parties and pass a reasoned order on merits.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

B.S. BHANUMATHI, J

Dt. 27.10.2026
RAR