



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI
IA No. 1 OF 2023

IN

CRP NO: 484 OF 2023

Between:

Gali Subramanyam Chowdary, S/o Late Gali Lakshmi Narayana Chowdary, Hindu, aged about 71 years, agriculture and contractor, R/o No. 18 - 8 - 90, Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)

Petitioner/Defendant No.6

AND

1. K.Navya, D/o K. Rohit Kumar, aged about 14 years,
2. K. Gagana Deepika, D/o K. Rohit Kumar, aged about 09 years,

Both are minors, represented by Mother/Natural Guardian K. Hemalatha (Both are R/o Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District))

...Respondent Nos.1 & 2/ Plaintiffs.

3. Kothapalli Balakrishnama Naidu, S/o K. Munirathnam Naidu,
4. K. Savithramma, W/o Kothapalli Balakrishnama Naidu,
5. K. Rohit Kumar, S/o Kothapalli Balakrishnama Naidu,
6. K. Ravi Kumar, S/o Kothapalli Balakrishnama Naidu,
7. K. Bharath Kumar, S/o Kothapalli Balakrishnama Naidu,

Respondent Nos. 3 to 7 R/o No. 18 - 8 - 25/C, Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)

Respondent Nos. 3 to 7/Defendant Nos. 1 to 5

Counsel for the Petitioner : Sri ADARSHITHA KILARU

Counsel for the Respondent : ----

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S. No. 40 of 2015 on the file of the Hon'ble Court of Family Judge cum V Additional District Judge, at Tirupati, Pending disposal of CRP No. 484 of 2023, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order. (The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER

"The learned counsel for the petitioner submitted that in the suit filed by the respondents 1 and 2 for partition, the petitioner is arrayed as 6th defendant and he was set ex parte on 30.04.2015. In fact, the respondents 1 and 2 promised the petitioner that they would not press the suit against him and hence the petitioner did not give any instructions to his counsel to file written statement, but the respondents 1 and 2 failed to keep up their promise in collusion with the defendants 3 to 5. Thus, there is no willful default or negligence on the part of the petitioner in not filing the written statement except the reason mentioned above. When the suit stood posted for further evidence of the plaintiffs, the petitioner filed petition under Order-9, Rule-7 CPC to set aside the exparte order dated 30.04.2015 passed against him. The said petition was dismissed by the Court below and aggrieved by the same, the present revision petition has been preferred.

The learned counsel would further submit that, there is no limitation for filing the petition under Order-9, Rule-7 CPC, however the court below dismissed the application on the ground that the petition was filed seven years after closure of cross-examination of P.W.1. The petitioner has fair and better chances of succeeding the revision. In the meantime, if the suit is further proceeded and decided, much irreparable loss and hardship would be caused to the petitioner. Hence, prayed to stay all further proceedings of the suit pending disposal of this Civil Revision Petition.

Perused the orders impugned in this Civil Revision Petition. The submissions made by the learned counsel for the petitioner and the grounds raised in this revision petition prima facie makes out a point for consideration to be decided in this revision petition. In the meantime, if suit is proceeded further and decided, the rights of the revision petitioner would be defeated, as such this Court is inclined to grant the following interim direction:

There shall be stay of all further proceedings in the suit in O.S.No.40 of 2015 on the file of the Court of the Judge, Family Court-cum-V Additional District Judge, Tirupati, for a period of four (04) weeks.

Sd/- U. SRI DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

For ,

SECTION OFFICER

To,

1. The Family Court-cum-V Additional District Judge, Tirupati.
2. K. Hemalatha Both are R/o Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)
3. Kothapalli Balakrishnama Naidu, S/o K. Munirathnam Naidu, R/o No. 18-8 -25/C, Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)
4. K. Savithamma, W/o Kothapalli Balakrishnama Naidu, R/o No. 18-8 -25/C, Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)
5. K. Rohit Kumar, S/o Kothapalli Balakrishnama Naidu, R/o No. 18-8 -25/C, Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)
6. K. Ravi Kumar, S/o Kothapalli Balakrishnama Naidu, R/o No. 18-8-25/C, Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)
7. K. Bharath Kumar, S/o Kothapalli Balakrishnama Naidu, Respondent Nos. 3 to 7 R/o No. 18-8 -25/C, Madhura Nagar, Tirupati, Tirupati District (erstwhile Chittoor District)(Addressess 1 to 6 by RPAD- along with a copy of petition and memorandum of grounds)
8. One CC to SRI. ADARSHITHA KILARU Advocate [OPUC]
9. One spare copy.

psk

HIGH COURT

RCJ

DATED:28/02/2023

POST ON 14.03.2023

IA No. 1 OF 2023
IN
CRP NO: 484 OF 2023

INTERIM STAY

