

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

C.R.P.No.2583 of 2014

ORDER:

Heard Sri N.Ravi Prasad, learned counsel for the petitioners and Sri E.S.Kumar, learned counsel for the respondents.

2. This Revision Petition is filed challenging the order dt.18-03-2014 in appeal bearing C.F.R.No.1119 of 2014 of the Principal Senior Civil Judge, Mancherial, Adilabad District in returning the appeal presented by the petitioner against the judgment dt.30-12-2013 in O.S.No.978 of 2005 of the Principal Junior Civil Judge, Mancherial even without numbering the said appeal on the ground that the decree passed by the trial Court is defective and directing the petitioners to get the decree corrected by filing petition under Section 152 CPC.
3. In the impugned order, the Principal Senior Civil Judge, Mancherial has observed that the trial Court did not specify in the judgment at all as to what reliefs it had really granted in favour of the plaintiff and it is a serious omission on the part of the trial Court and the petitioners should take recourse to Section 152 CPC to get the decree corrected.
4. Learned counsel for the petitioners contends that the inability of the trial Court to draft a proper decree is no doubt a serious matter, but the same has to be corrected only by the appellate Court, and the provisions of Section 152 CPC cannot be invoked to compel the trial Court to draft a decree in the manner which it should have drafted.
5. This is not disputed by the learned counsel for the respondents.

6. Therefore, I am of the opinion that the Court below was not correct in refusing to register the appeal on the ground that there was a defect in the decree drafted by the trial Court. The Court below is not correct in directing the petitioners to approach the trial Court under Section 152 CPC to get the decree drafted correctly. This approach of the trial Court is clearly perverse.
7. Therefore the order dt.18-03-2014 bearing C.F.R.No.1119 of 2014 in unregistered appeal suit of the Principal Senior Civil Judge, Mancherial, Adilabad District arising out of the judgment and decree dt.30-12-2013 in O.S.No.978 of 2005 of the Principal Junior Civil Judge, Mancherial is set aside and the said Court is directed to register the appeal, subject to fulfillment of other formalities such as Court Fee etc.
8. The Civil Revision Petition is accordingly allowed. No costs.
9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-09-2015

Note:

Registry is directed to return the certified copy of the impugned order to the counsel for the petitioners immediately.

B/o.

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