

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

C.R.P. No.2558 of 2015

Between:

S.V.N.Prasad

... Petitioner/Appellant(s)

And

C.H.N.Kishore Babu and another

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: **17.07.2015**

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE G.CHANDRAIAH

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be
marked to Law Reporters/Journals. Yes/No

3. Whether Their Ladyship/Lordship wish to

see the fair copy of the Judgment? Yes/No”

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

C.R.P. No.2558 of 2015

ORDER:

This revision petition has been filed aggrieved by the order dated 18.06.2015 passed in I.A. No.222 of 2014 in O.S. No.1603 of 2008 by the I Additional Junior Civil Judge at Vijayawada.

The revision petitioner and the respondents 1 and 2 in the present revision petition are the 2nd defendant, plaintiff and the first defendant, respectively, in O.S. No.1603 of 2008. Suit was filed by the plaintiff/1st respondent for mandatory injunction and for permanent injunction and it is a part heard matter and the main suit is of the year 2008.

The revision petitioner filed I.A. No.222 of 2014 in O.S. No.1603 of 2008 under Order VII Rule 11 read with Section 151 CPC to reject the plaint. The learned trial Court disposed of the said I.A. advising the parties to proceed with the trial. Assailing the same, the petitioner filed the present revision.

The learned counsel for the petitioner submitted that the nature of the plaint has undergone lot of changes by virtue of the consequential amendments and this amount to fresh cause of action which is not disclosed. It is also submitted that in view of the cause of action, nature of suit has been changed thus the amended plaint is not maintainable. Further, the Court below committed an error in rejecting the application on the ground that the issue can be adjudicated in the final hearing stage of the main suit.

On the other hand, the learned counsel for the 1st respondent submitted that the case is at the trial stage and therefore, at this juncture, application filed by the revision petitioner, before the Court below, was rightly rejected holding that the contentions raised by him can be considered at any point of time. Therefore, no interference of this Court is required with the impugned order and the present revision petition is liable to be dismissed.

Heard the learned counsel on either side and perused the material on record.

As could be seen from the impugned order, it is clear that the Court below categorically observed that the revision petitioner, after coming on record, trying to drag on the proceedings by filing one petition or the other. It is also specifically observed that the petitioner going into the merits of the case and it cannot be considered at this stage and unless and until full fledged trial is concluded the issues framed cannot be decided. Though the petitioner is having strong case it has to be projected before the Court by adducing cogent and convincing evidence during the course of trial in order to adjudicate the matter in a proper perspective. The contentions of the petitioner will be taken into consideration during the course of trial in the main suit.

Having regard to the facts and circumstances of the case and in view of certain specific observations made by the Court below and oldness of the matter, I do not see any reason to interfere with the impugned order and therefore, the revision

petition is liable to be dismissed.

Accordingly, this revision petition is dismissed. However, it is open for the parties to raise their contentions before the Court below and the same shall be considered by the Court below without influencing any observations made by this Court.

As a sequel, miscellaneous petitions, if any, stands closed. There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 17.07.2015

LSK

