

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

CIVIL REVISION PETITION No.129 of 2013

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ORDER:

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This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.24-08-2012 in I.A.No.559 of 2012 in O.S.No.42 of 2008 of the I Additional District Judge, Karimnagar.

2. The petitioner herein is 3rd defendant in the above suit. The

1st respondent/plaintiff filed the suit against petitioner and two other defendants for specific performance of an agreement of sale dt.07-10-2007, to declare certain sale deeds as null and void and for costs.

3. After receiving summons, the petitioner/3rd defendant first filed his written statement disputing the suit claim. Thereafter defendant Nos.1 and 2 (respondent Nos.2 and 3 herein) filed a written statement, in which, it is alleged that, some false allegations were made against petitioner/3rd defendant.

4. In view of the same, the petitioner filed an

application under Order VIII Rule 9 CPC seeking permission of the Court to file an additional written statement.

5. No counter affidavit was filed opposing this application.

6. By order dt.24-08-2012, the Court below dismissed the said application stating that in the affidavit filed in support thereof, no reason was mentioned why additional written statement is sought to be filed by petitioner.

7. Challenging the same, this Revision is filed.

8. Heard Sri K.Venumadhav, learned counsel for petitioner, Sri K.Govind Reddy, learned counsel for 1st respondent and Sri K.M.Mahender Reddy, learned counsel for respondent Nos.2 and 3. None appears for respondent Nos.4 to 9 even though notices have been served.

9. The learned counsel for petitioner contended that the statement in the impugned order that no reason was given by petitioner for seeking to file additional written statement is not correct; since the petitioner had filed written statement before respondent Nos.2 and 3 and in the written statement filed by respondent Nos.2 and 3 certain allegations were made against petitioner, the

petitioner is entitled to seek leave of the Court below to file an additional written statement.

10. The learned counsel for respondents have not disputed this contention of the learned counsel for petitioner.

11. Order VIII Rule 9 CPC states that no pleading subsequent to written statement of a defendant either by way of defence to set off or counter-claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit.

12. Therefore, leave of the Court is necessary to enable a defendant to file additional written statement. I am of the opinion that the reason given by petitioner to file additional written statement i.e. that certain allegations were made in the written statement filed by respondent Nos.2 and 3/defendant Nos.1 and 2 which were filed after the written statement of petitioner had been filed, is a sufficient ground for grant of leave to petitioner to file the additional written statement.

13. In this view of the matter, the impugned order cannot be sustained. The Civil Revision Petition is allowed and I.A.No.559 of 2012 in O.S.No.42 of 2008 on the file of I Additional District Judge, Karimnagar is also allowed; the petitioner is directed to file additional written statement

within a period of four weeks from the date of receipt of a copy of this order; in default there of, this Revision shall stand dismissed. No costs.

14. Since the suit is of the year 2008, the Court below shall endeavour to dispose of the suit after giving opportunity to both parties to lead evidence as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

15. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 22-06-2015

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