

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

FRIDAY, THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No. 572 of 2012

BETWEEN

Poruri Janardhana Madhava Rao and others

... PETITIONERS

AND

Vasudevan Annapurna and others

...RESPONDENTS

The Court made the following:

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ORDER:

Heard.

2. Petitioners herein are appellants in A.S.No.85 of 2010, which is pending before I Additional District Judge's Court, Ongole. One of the grievances of the petitioners is that the trial court had not framed issues appropriately in the suit viz., O.S.No.15 of 2000 and thereby, resulted in trial court committing error in deciding the suit. Therefore, petitioners made an application before the appellate court viz., I.A.No.711 of 2011 in A.S.No.85 of 2010 on the file of I Additional District Judge's Court, Ongole, requesting to frame additional issues under Order XLI Rule 25 CPC and then consider and dispose of the appeal. By the impugned order, dated 16.11.2011, the

appellate court considered the said application and after examining the record, rejected the same holding that issue Nos.1, 5, 6 and 11, already framed by the trial court, are comprehensive enough and even cover the additional aspects sought to be raised by the petitioners. The said order is questioned in this revision.

3. Since this revision is pending from 2012 onwards, when it was listed before me on 27.02.2015, I called for a report from the appellate court regarding the status of the appeal. The report since submitted by learned I Additional District Judge, Ongole, who is also Full Additional Charge of III Additional District Judge, Ongole, shows that the appeal is coming up for hearing and for some time there was no presiding officer for the court and thereafter the matter is being adjourned from time to time and the appellant is not reporting ready. It appears that the appeal is now posted for hearing to 18.03.2015.

4. It is well settled that before the appellate court the entire suit is at large and the first appellate court being a court of law and facts, it will be within the jurisdiction of the appellate court to examine the entire suit afresh, which includes the appropriate points that are required to be framed for determination by the appellate court. Since the grievance of the petitioners is with regard to non-framing of additional issues, even those aspects can also be examined by the appellate court while hearing and determining the appeal and, if necessary, by framing appropriate points for consideration. At this stage, therefore, it is neither just nor proper to direct the appellate court to frame any particular point for consideration.

5. Hence, the civil revision petition is disposed of giving liberty to the appellate court to examine the entire matter afresh and, if necessary frame necessary points for determination including points raised by the petitioners, and then hear and determine the appeal, on merits, as early as possible preferably within three months. Learned counsel for the petitioner also assures the court that his counter part shall cooperate with the court and shall dispose of the appeal as may be directed above.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

March 13, 2015
LMV