

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

**CIVIL REVISION PETITION Nos.1647, 1653 and 1765 of
2015**

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COMMON ORDER:
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Since the parties to these Revisions are one and the same, and all the three Revisions arise out of the same suit, they are being disposed of by this common order.

2. The petitioners herein are defendants in O.S.No.183 of 2013 on the file of I Additional District Judge, Warangal. The respondents filed the said suit against petitioners for specific performance of an agreement of sale dt.25-04-2006 in respect of the plaint schedule property or in the alternative for return of sale consideration with interest.

3. The petitioners filed written statement opposing the suit claim.

4. Issues were framed and trial commenced. The evidence on the side of respondents was closed.

5. Thereafter the petitioners' turn to lead evidence came. At that stage, D.W.1, who was 1st defendant in the suit, did not attend the Court on 11-12-2014 for giving evidence. The counsel for other defendants also could not

represent the matter. So, the Court below closed their evidence and posted the case for hearing.

6. In view of that, the petitioners filed I.A.No.187 of 2015 to reopen the suit for the purpose of adducing further evidence by filing documents on their behalf; I.A.No.188 of 2015 to recall D.W.1 for further chief-examination for marking certain documents as Exhibits on their behalf; and I.A.No.190 of 2015 to permit the petitioners/defendants to file certain documents . In addition to these applications, I.A.No.189 of 2015 was also filed by petitioners seeking amendment of the written statement.

7. The application I.A.No.189 of 2015 filed under Order VI Rule 17 CPC for amendment of written statement was dismissed by the I Additional District Judge, Warangal on 30-03-2015.

8. The Court below also dismissed I.A.Nos.187 of 2015, 188 of 2015 and 190 of 2015 by a cryptic order saying “in view of the orders in I.A.No.189 of 2015, this petition also stands dismissed”.

9. Challenging the same, these Revisions are filed.

10. The petitioners did not think it fit to challenge the order

dt.30-03-2015 in I.A.No.189 of 2015.

11. But the learned counsel for petitioners contends that the reasons given for filing these I.A.Nos.187 of 2015, 188 of 2015 and 190 of 2015 have not been considered by the Court below and the order in I.A.No.189 of 2015 cannot be the basis for dismissing these I.As. In his submissions he pointed that I.A.No.189 of 2015 was filed seeking amendment of the written statement by petitioners and the reason why I.A.Nos.187 of 2015, 188 of 2015 and 190 of 2015 have been filed, is not on account of the petitioners seeking amendment of written statement at all. He therefore contended that the dismissal of I.A.No.189 of 2015 cannot be a ground to dismiss these I.As.

12. The learned counsel for respondents however refuted these contentions and pointed out that there was no error committed by the Court below in dismissing the three I.As.

13. A perusal of the affidavits filed in support of I.A.Nos.187 of 2015, 188 of 2015 and 190 of 2015 indicates that the reasons why these applications are filed is not on account of petitioners' seeking amendment of the written statement at all. Therefore, whatever may be reason for which I.A.No.189 of 2015 seeking amendment

of written statement was dismissed, that cannot have a bearing for considering I.A.Nos.187 of 2015, 188 of 2015 and 190 of 2015.

14. Even if the Court below had made any observations on the merits of I.A.Nos.187 of 2015, 188 of 2015 and 190 of 2015 while rejecting I.A.No.189 of 2015, since it did not pass common order in all the I.As. including I.A.No.189 of 2015, the same cannot be taken note of.

15. In this view of the matter, I am of the opinion that these separate orders dt.30-03-2015 dismissing I.A.Nos.187 of 2015, 188 of 2015 and 190 of 2015 cannot be sustained. The said orders are accordingly set aside; the said I.As. are restored to the file of the Court below, and the Court below is directed to pass fresh orders therein after hearing the counsel on both sides and pass reasoned orders uninfluenced by its observations while deciding I.A.No.189 of 2015. This exercise shall be completed within a period of eight (08) weeks from the date of receipt of a copy of this order.

16. These Civil Revision Petitions are allowed accordingly. No costs.

17. As a sequel, miscellaneous petitions pending if any, in these Revisions shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 16-06-2015

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