

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.1103 of 2014

Date: 16-11-2015

Between:

Poranki Subba Raju

.. Petitioner

AND

Guntupalli Babu Rao

.. Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.1103 of 2014

ORDER:

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The revision petitioner is the plaintiff in O.S.No.53 of 2011 on the file of IV Additional District Judge, Kakinada, East Godavari District. The respondent herein, who is defendant in the suit, filed I.A.No.449 of 2014 seeking permission of the Court to file additional written statement and when the said application was allowed by order dated 14-03-2014, the present Civil Revision Petition is filed.

The relevant portion of the affidavit filed in support of the application filed seeking permission to file additional written statement reads as follows:

“....I submit that I am the defendant in this suit and petitioner herein. I know the facts of the case.

I submit that the plaintiff filed the suit against me and I filed written statement into Court. I pray the written statement filed by me may be read as part of this affidavit.

I submit that the suit is posted to 11-03-2014 for cross-examination of PW.1

I humbly submit that I am filing additional written statement into Court. The additional written statement filed herewith may be read as part of this affidavit.....”

The revision petitioner herein resisted the said application stating that the petition is vague and no reasons were assigned to file written statement. The petitioner further stated that the stand taken by the defendant is contrary to the stand taken earlier in the written statement and the facts pleaded were available to the defendant at the time of filing of the original written statement itself. The counter further stated that the application was filed at the stage of cross-examination of the defendant and after long time of filing of the written statement.

The trial Court, after considering the pleadings of the parties, without assigning any reasons allowed the application by stating as follows:

“.....The reasons ascertained by him in the written statement and submissions made by the petitioners counsel considered by this Court and receive the additional written statement filed by the petitioner herein.....”

In the absence of any reasons assigned by the trial Court while allowing the application, this Court is not in a position to appreciate the grounds on which the application of the respondents herein was allowed. The trial Court should have considered the facts and circumstances of the case in proper perspective in the light of the law laid down by the Supreme Court in various decisions. In the absence of any reasons, this Court is constrained to set aside the impugned order dated 14-03-2014 in I.A.No.449 of 2014 in O.S.No.53 of 2011 passed by the IV Additional District Judge, Kakinada and remand the matter to the learned IV Additional District Judge, Kakinada, for passing appropriate orders in accordance with law after hearing the learned counsel for both parties. The learned IV Additional District Judge, Kakinada, shall pass orders

within a period of thirty (30) days from the date of receipt of a copy of the order. This matter is remanded only for the purpose of hearing the learned counsel for both parties and for passing orders with appropriate reasons.

The Civil Revision Petition is allowed accordingly. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 16-11-2015

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