

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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CRP No. 2354 of 2014

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Date of Judgment: 30.1.2015

Between:

Majeti Venkateswara Rao and others

...Petitioners

And

Jagarlamudi Srinivasa Rao

..Respondent

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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ORDER:

Heard learned senior counsel for the petitioners as well as learned counsel for the respondent.

The petitioners/defendants have filed the present revision petition against the order dated 14.7.2014 in I.A.No. 470 of 2014 in O.S.No. 156 of 2005 on the file of the Additional Senior Civil Judge, Ongole dismissing an application for receiving additional written statement on behalf of defendants 3 and 4.

The defendants 3 and 4 sought to file additional written statement on the ground that they were minors on the date of suit and they have vital interest in contesting the suit as their substantial property is subject matter of the suit for specific performance and after they were declared majors, they have not filed any independent written statement. The said application was opposed by the respondent/plaintiff by filing a counter bringing to the notice of the Court that the third defendant, in fact, reported that there was no written statement to be filed and the fourth defendant adopted the written statement filed by the second defendant, instead of filing a separate written statement. In view of that and as the evidence on behalf of the plaintiff was over and the suit was coming up for cross-examination of D.W.1, the trial Court dismissed the application.

Learned senior counsel for the petitioners/defendants submits that the procedural rules are required to be relaxed in order to enable the defendants 3 and 4 to introduce their own pleadings as their substantial property is at stake in the civil suit. He also sought interference by this Court on the ground that even by imposing costs an opportunity for filing additional written statement can be granted in the interest of justice.

After hearing the learned senior counsel for the petitioners/defendants and the learned counsel for the respondent/plaintiff, I am not inclined to accept the contention of the learned senior counsel for the petitioners/defendants in view of the specific events which occurred in the suit as noted below,

The third defendant was declared major by order of the trial Court in I.A.No. 955 of 2007 and the suit was adjourned only for the purpose of filing additional written statement by third defendant. On 31.8.2007 a neat copy of the plaint was filed and it was specifically reported on behalf of third defendant that there was no additional written statement and no additional issue. Subsequently on applications filed by the plaintiff vide IA Nos. 1275 of 2010 and 1276 of 2010, the fourth defendant was declared major and his guardian was discharged by order of the trial Court dated 29.9.2010. Thereafter a vakalat on behalf of fourth defendant was filed and the suit was posted for additional written statement on behalf of fourth defendant on 15.11.2010. On that day the fourth defendant filed a memo adopting the written statement of second defendant and reported no additional written statement and no additional issue. In view of that, the suit has progressed further and the evidence of the plaintiff

was over and at the stage of cross-examination of D.W.1, the present application-IA No. 470 of 2014 was filed. Evidently the right to file additional written statement was not availed of by the defendants 3 and 4 and at the belated stage when the trial has progressed substantially, the present application cannot be considered as it would amount to introducing fresh pleadings which would lead to de-novo trial causing prejudice to the plaintiff. Hence the trial Court's order does not require any interference by this Court.

The revision petition is accordingly dismissed along with miscellaneous applications, if any. No order as to costs.

VILAS V. AFZULPURKAR, J

Dt. 30.1.2015
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