

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

FRIDAY THE ELEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIFTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

CIVIL REVISION PETITION NO. 3120 OF 2015

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Between:

Veerisetty Venkata Subba Rao ... Petitioner

V/s.

Bogala Gangadhara Reddy & Anr. ... Respondents

Counsel for the Petitioner: Sri R.Radha Krishna Reddy

Counsel for the Respondents: Sri P. Ganga Rami Reddy

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

CIVIL REVISION PETITION NO. 3120 OF 2015

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ORDER:

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Heard Sri R. Radhakrishna Reddy, learned counsel for
Petitioner and Sri P. Ganga Rami Reddy, learned counsel for
respondents.

2. The Plaintiff in OS.No. 14 of 2001 in the Court of VI
Additional District Judge, Nellore is the Revision Petitioner.

3. The Revision is directed against the order dated 11/06/
2013 in I.A.No. 317 of 2014, which was filed by the respondents in
the Revision under Order-6, Rule-17 of CPC for amendment of
written statement. The order impugned has referred merely
referred to the stand taken in the affidavit and the counter filed by
the parties in I.A.No. 317 of 2014. The learned trial Judge from
Paragraph No.10 to Paragraph No.20 referred to decisions on
which the learned counsel appearing for the parties have relied
upon. The reasoning of the trial Judge to allow the prayer in
I.A.No. 317 of 2014 reads as follows:

*“No doubt, petitioners have filed present
application when the matter is posted for arguments.
Mere filing of application at the belated stage will not
curtail the right of the petitioners. No prejudice will
be caused to the respondent/plaintiff if the proposed*

amendment is carried out. On the other hand, entire controversy will be resolved once for all. The delay caused in filing the application can be compensated to the respondent by way of costs, as such, petition filed by the petitioners is allowed subject to payment of costs of Rs.2000/-. [Rs. Two thousand only] payable to the respondent on or before 19/6/2015 failing which the petition shall stand dismissed.”

4. The learned counsel appearing for the petitioner contends that the manner of disposal of application filed under Order-6, Rule-17 of CPC is erroneous and vehemently contended that excerpting various decisions by itself does not amount to consideration of the issue between the parties for decision in the instant application. Sri P.Ganga Rami Redy while trying to sustain the order impugned in the Revision alternatively submitted that if for any reason this court is not satisfied with the disposal of I.A.No. 317 of 2014 by the learned trial Judge he states that he has as no objection for reconsideration of I.A.No.317 of 2014 afresh by the trial court.

5. The application is filed under Order-6, Rule-17 of CPC. The learned trial Judge, as this court understands has proceeded on the ground that mere filing application at belated stage will not curtail the rights of the petitioner. Plaintiff in any manner he further

felt that even if any prejudice is caused to plaintiff/petitioner herein the same can be compensated by directing payment of costs to the plaintiff/petitioner. The reasoning of trial Judge is too brief and besides the well-established principles of law. It is difficult to appreciate or sustain the ground on which the order impugned in the Revision is passed.

6. In the case on hand, the proposed amendment refers to exchange of legal notice dated 22/09/2010 and reply notice dated 12/10/2010 between parties. The respondents/defendants through the proposed amendment claim set-off, having regard to what is stated in the notice dated 22/09/2010. Having regard to the nature of proposed amendment, this court expects the learned trial Judge to consider the prayer for amendment under Order-6, Rule-17 of CPC in accordance with the settled proposition of law and dispose of the same. The directions or conclusion would defeat the purpose of remand and hence I am not recording the findings on the issue of fact and law pending between parties in the instant I.A. It is for the trial court to consider the I.A. from right perspective and pass orders.

6. The Civil Revision Petition is allowed at the stage of

admission. I.A. is remanded to trial Court. No order as to costs.

7. As a sequel, miscellaneous petitions if any,
pending in this Civil Revision Petition shall stand closed.

JUSTICE S.V. BHATT

11/09/2015
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HONOURABLE SRI JUSTICE S.V. BHATT

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Date:11/09/2015
Circulation No.
Court Master: I s L