

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

C.R.P.No.2826 of 2014

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.07.08.2014 in I.A.No.164 of 2014 in I.A.No.86 of 2014 in O.S.No.563 of 2014 of the VII Junior Civil Judge, City Civil Court, Hyderabad.

2. Petitioner herein is the plaintiff in the above suit. She filed the said suit for a perpetual injunction restraining the respondent from interfering with her alleged peaceful possession and enjoyment of the plaint schedule property.

3. Along with the suit, she filed I.A.No.86 of 2014 under Order XXXIX Rules 1 and 2 of CPC seeking a temporary injunction pending the suit.

4. Counter affidavit was filed by the respondent in the said IA.

5. The petitioner filed I.A.No.164 of 2014 seeking leave of the Court to file a rejoinder to the said counter.

6. By order dt.07.08.2014, the Court below dismissed the said application on the ground that the petitioner had not filed any rejoinder along with the I.A. and also on the ground that the petitioner did not mention why she wants to file a rejoinder to the counter.

7. Challenging the same this Revision is filed.

8. Heard Smt Anita Ahuja, counsel for the petitioner and Sri Javed Razack, counsel for respondent.

9. In my considered opinion, the reasoning of the Court below is perverse in as much as it is not necessary for the petitioner to explain why she wants to file a rejoinder to the counter in I.A.No.86 of 2014 and the contents of the rejoinder itself would be self explanatory.

There is no requirement in law that a rejoinder should be filed along with the application seeking leave to file the rejoinder. Therefore, the impugned order cannot be sustained.

10. Accordingly, this Civil Revision Petition is allowed. The order 07.08.2014 in I.A.No.164 of 2014 in I.A.No.86 of 2014 in O.S.No.563 of 2014 of the VII Junior civil Judge, City Civil Court, Hyderabad is set aside and the said I.A. is allowed. The petitioner shall file a rejoinder to the counter affidavit filed by the respondent in I.A.No.86 of 2014 within a period of two (02) weeks from the date of receipt of a copy of this order. In default, this Civil Revision Petition shall stand dismissed. There shall be no order as to costs.

11. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

30th October, 2015.

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