

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

CRP.No.2514 of 2015

Between:

M.Thimma Reddy

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... Petitioner/Appellant (s)

and

R.Seethamma

-

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 07.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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|-------|---|---------------|
| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | <u>Yes/No</u> |
| <hr/> | | |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | <u>Yes/No</u> |
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| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | <u>Yes/No</u> |

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.2514 OF 2015

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ORDER:

This Civil Revision Petition is filed against the docket order dated 06.06.2015, passed by the IV Additional District Judge, Kurnool, in IA.No.135 of 2015 in OS.No.71 of 2011, whereby the Court below dismissed the application filed by the petitioner/defendant under Order-8, Rule-9 and Sec.151 of CPC to permit him to file additional written statement on the ground that the respondent/plaintiff had taken a new plea in the rejoinder filed

by him.

Learned counsel for the petitioner submits that the respondent had raised a plea that petitioner is a practicing advocate at Kurnool and Hyderabad having no time to stay at village where the properties are situated. Unless the same is disputed by filing the additional written statement, it amounts to admission; as such the Court below ought to have allowed the same.

On the other hand, the learned counsel for the respondent submits that the suit is for partition, and the said aspect for which the petitioner seeking permission to file additional written statement is irrelevant for deciding the partition suit and that the petitioner wants to drag on the proceedings.

It is to be seen that the respondent in the Rejoinder raised a plea that the petitioner is a practicing advocate having no time to stay at village and that he is practicing at Hyderabad and Kurnool. It is a known principle that one has to plead his case and prove the same. So in this case no prejudice would be caused to the respondent/plaintiff if petitioner files the additional written statement disputing the said aspect. The trial Court has also not stated that the application is filed belatedly.

In view of the above, the order dated 08.06.2015, passed by the Court below in IA.No.135 of 2015 in OS.71 of 2011 is set aside and the trial Court is to take additional written statement on record and proceed with the trial as per law and dispose of the suit within a period of six months from the date of receipt of a copy of this order.

With the above direction, the CRP is disposed of. No order

as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the CRP shall stand closed.

A.RAJASHEKER REDDY, J

07.08.2015

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