

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.2279 of 2014

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant aggrieved by the docket order dated 17.06.2014 passed by the XIII Additional District Judge (FTC), Vijayawada, Krishna District, in the Memo dated 11.6.2014 filed by the respondent/plaintiff in O.S.No.72 of 2007.

2. The respondent/plaintiff filed suit in O.S.No.72 of 2007 for eviction of the petitioner/defendant after issuing quit notice. Written statement was filed by the petitioner/defendant and issues were also framed. At that stage, the respondent/plaintiff has filed a Memo dated 11.6.2014 seeking permission to adduce rebuttal evidence on behalf of the plaintiff after completion of defendant's evidence. The Court below allowed the same through the impugned docket order dated 17.6.2014 on the ground that no counter is filed. Hence, the present civil revision petition.

3. Heard learned counsel for the petitioner/defendant as well as learned counsel for the respondent/plaintiff and perused the impugned order.

4. Order 18 Rule 3 of C.P.C., is the relevant

provision for disposal of this revision. As per the said provision, where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; and, in the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

5. From a perusal of the issues framed in the suit, it is clear that the burden lies on the respondent/plaintiff to prove the same. In that view of the matter, in the absence of any valid petition, the trial Court has erred in allowing the Memo filed by the plaintiff, which itself does not indicate any reasons.

6. For the aforesaid reasons, this civil revision petition is allowed setting aside the impugned docket order dated 17.6.2014 passed by the Court below. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY
13.02.2015.
Msr

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