

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.5 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful respondent/defendant is directed against the order dated 29.09.2015 of the learned VII Senior Civil Judge, City Civil Court, Hyderabad, passed in I.A.No.227 of 2015 in O.S.No.467 of 2014 filed under Order XXII Rule 3 read with Section 151 of the Code of Civil Procedure, 1908, filed by the plaintiff requesting for permission to bring on record the proposed plaintiffs 2 to 4 as plaintiffs 2 to 4 in the suit, they being the legal representatives of the deceased sole plaintiff.

2. I have heard the submissions of Sri *Ch.Srinivasa Raju*, the learned counsel for the revision petitioner/defendant ('defendant', for brevity) and Sri *Nazir Ahmed Khan*, the learned counsel for the respondents/plaintiffs 2 to 4 ('plaintiffs 2 to 4' for brevity). I have perused the material record.

3. At an earlier hearing, when it was submitted that the trial Court did not pass a speaking order while allowing, on terms, the interlocutory application in I.A.No.227 of 2015, this Court called for the records from the trial Court. A perusal of the trial Court record would reveal that on 21.09.2015, the following order was passed by the trial Court in the aforementioned interlocutory application:

"Petition shall be allowed on costs of Rs.100/- on or before 29.09.2015"

4. It is fairly stated that the said order was passed without taking into consideration the counter filed by the defendant/respondent therein. Thus, the above said order is not a speaking order and that it was passed in violation of the settled legal principles and the procedure established by law, is fairly conceded. However, on 29.09.2015, the trial Court made the following further order in the aforesaid interlocutory application:

“Costs paid. Memo filed. Petition is allowed.”

5. The learned counsel for both the sides would submit that the successive orders dated 21.09.2015 and 29.09.2015 passed by the trial Court in the aforementioned interlocutory application may be set aside and the said interlocutory application may be remitted to the trial Court for fresh disposal in accordance with the procedure established by law after taking into consideration the counter, which was said to have been already filed by the defendant/respondent before the trial Court, and, if necessary, after giving an opportunity to the proposed plaintiffs to file reply to the counter of the defendant.

6. Having regard to the facts, circumstances, fair concession and the submissions, this Civil Revision Petition is allowed and the order impugned in this revision as well as the non speaking order dated 21.09.2015 passed by the trial Court in I.A.No.227 of 2015 are hereby set aside. As a sequel, I.A.No.227 of 2015 is restored to the file and is remitted to the trial Court for fresh disposal in accordance with the procedure established by law after taking into consideration the

counter, which was said to have been already filed by the defendant/respondent before the trial Court, and, if necessary, after giving an opportunity to the proposed plaintiffs to file reply to the counter of the defendant.

7. Keeping in view the submission of the learned counsel for the proposed plaintiffs that the subject interlocutory application is unnecessarily holding up the disposal of the suit, which is of the year 2014, the trial Court is directed to dispose of the said I.A. No.227 of 2015 as expeditiously as possible and preferably within one (1) month from the date of receipt of a copy of this order and also the suit thereafter, as expeditiously as possible and preferably within four (4) months from the date of the disposal of the above said interlocutory application.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

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M. Seetharama Murthi, J

Note:-

Furnish CC by 02.01.2017.

(B/o)

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Note:-

The Registry is directed to return the record to the trial Court to enable the trial Court to comply with the order now passed in this revision.