

HON'BLE SRI JUSTICE R.KANTHA RAO
C.R.P.No.1982 OF 2010

ORDER

This Civil Revision Petition is directed against the order dated 5.2.2010 passed in I.A.No.667 of 2009 in A.S.No.89 of 2001 by the VIII Additional District Judge, Guntur.

Heard learned counsel appearing for the petitioners and learned counsel appearing for the respondents.

In the affidavit filed in support of I.A.No.667 of 2009, it is averred that the first defendant, after closure of the evidence in O.S.No.134 of 1998 before the trial Court, went to USA and stayed for some time and returned to India and that thereafter, he intended to withdraw the suit and accordingly filed a Memo through Sri K.Krishna Murthy, Advocate.

In the said Memo, it is stated that Will dated 6.9.87 was executed by his wife Raj Kumari Mukkamala; that the registered Will dated 16.04.1991 was executed by M.Maday, M.A.L.T; that defendants 4 and 5 did not pay amount for the said property, but obtained legal title in respect of the said property and that therefore, the first defendant consented to the entry of judgment in favour of the plaintiffs for the reliefs claimed by them. Thereafter, the revision petitioners-plaintiffs filed I.A.No.667 of 2009 before the trial Court under Section 151 CPC to pass orders on the Memos filed in A.S.No.89 of 2001 and also in O.S.No.134 of 1998.

The trial Court while observing that some evidence was recorded and there is no provision for pronouncing the judgment based on the memos filed by the first defendant,

dismissed the petition and directed the parties to proceed with the trial. Aggrieved by the same, the present revision has been preferred.

Learned counsel appearing for the petitioners submits that as per Order 12 Rule 6 CPC, it is obligatory on the part of the Court to pronounce judgments on the admission/s made by the parties, but the trial Court refused to exercise the jurisdiction vested in it by virtue of the said provision and hence, he seeks to set aside the order passed by the trial Court.

On the other hand, it is submitted by the learned counsel appearing for the respondents that the contention put forth by the petitioners that the first defendant agreed for passing of the decree in favour of the plaintiffs in both the suits is not correct and therefore, the trial Court is justified in not pronouncing the judgment based on the memos filed by the first defendant.

Learned counsel appearing for the petitioners relied on the judgment of the Apex Court in *Charanjit Lal Mehra and others v. Kamal Saroj Mahajan and others*^[1], wherein the Apex Court clearly held that where a claim is admitted, the Court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on the admitted claim in terms of Rule 6 of Order 12 CPC.

I have gone through the memos filed by the first defendant and also the counter filed by him. Obviously, in this case, the other respondents did not give any consent to pass the judgment based on the said memos. However, the first defendant resiled from the memos filed by him. This Court is

of the view that it would be appropriate on the part of the trial Court to pronounce the judgment after trial instead of deciding the case based on the memos.

In the facts and circumstances of the case, the trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order duly taking into consideration the admissions made by the parties without being influenced by any of the observations made by this Court.

Accordingly, the Civil Revision Petition is disposed of.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE R.KANTHA RAO

5th February, 2016
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^[1] 2005(5) SCJ 481