

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.5793 of 2015

ORDER :

This civil revision petition is filed under Article 227 of the Constitution of India, by defendant No.2 in the suit in O.S.No.507 of 2010 on the file of X-Additional Chief Judge, City Civil Court, Hyderabad, aggrieved by order, dated 02.11.2015, passed in I.A.No.1288 of 2015.

2. The suit in O.S.No.507 of 2010 is filed by the 1st respondent herein, for recovery of possession of suit schedule property and damages in respect of such property. When the matter is at the advanced stage of enquiry, the application in I.A.No.1288 of 2015 is filed seeking leave of the Court to file additional written statement. Such application is dismissed by the Court below by impugned order. Hence, this revision petition.

3. It is the case of the petitioner that the suit schedule property is acquired and demolished by the Metro Rail Project Authorities and the entire hotel, which is being run in the suit schedule property is affected, and to bring the same to the notice of the Court, additional written statement is required to be filed. Therefore, seeking leave to file additional written statement, I.A.No.1288 of 2015 is filed.

4. Opposing the above application, counter affidavit is filed. In the counter, it is categorically pleaded that the suit schedule property is intact and the petitioner is carrying on business in the same in the name and style of "Nice Hotel". The acquisition and demolition of suit schedule property as alleged by the petitioner in I.A.No.1288 of 2015, is denied in the counter affidavit.

5. The Court below, by impugned order, by recording a finding that such acquisition is not relevant to the issue involved in the suit for recovery of possession, dismissed the petition.

6. In this civil revision petition, it is contended by the learned counsel for petitioner that as the suit schedule property itself is acquired, no possession can be ordered without bringing it to the notice of the Court by way of additional written statement. The learned counsel has placed reliance on the judgment in **Jayanthi v. K.L.Narayana & another**^[1], wherein, a learned single Judge of this Court has held that an additional written statement which answers the description of further pleading can be filed mostly to deal with a specific situation that has taken place after the pleadings in a suit are complete.

7. Having heard learned counsel for petitioner, I have

also perused the petition and counter affidavit in I.A.No.1288 of 2015. Though it is pleaded by the petitioner that the suit schedule property is acquired recently for the purpose of Metro Rail Project, the same is categorically denied in the counter affidavit. In the absence of any evidence with regard to acquisition, and further, having regard to the averments in the counter affidavit filed in the I.A., I do not find any ground to interfere with the impugned order. Further, having regard to the fact situation in the case on hand, the judgment relied on by the learned counsel for petitioner would not support his case.

8. The revision petition is accordingly dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

6th January 2016

ajr

[\[1\]](#) 2013 (4) ALT 439