

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.5112 & 5189 of 2016

COMMON ORDER:

These 2 revisions arisen out of the respective orders passed by the learned I Additional Chief Judge, City Civil Court, Secunderabad, dated 30.11.2015.

It is the amount arrived after calculation by deducting the amounts said to have been paid by the respective respondents i.e., revision petitioners among others in passing the orders by the lower Court, same is impugned in the 2 revisions saying several amounts paid to the credit of the matter in the civil Court deposited earlier not properly reflected and had those been taken into consideration what the amount payable is nil and what was paid is excess to what is payable, thereby the revisions sought to be allowed with that contention.

Heard both sides at length and perused the impugned orders, grounds of revision and the counter filed by the revision respondents to CRP.No.5112 of 2016 and their calculation in CRP.No.5189 of 2016. In fact opportunity is afforded to the revision petitioners (defendant Nos.5 & 8) to produce certified copies of the civil Court deposits to support their claim of what was paid is excess to what is due and what was found due by the lower Court is not correct and they could not produce the details but for the particulars of amounts paid and invested in FDs, which no way reflects who paid what amount and when etc., details which they require to establish. At this stage, an application is filed to call for all the original records from the lower Court. It is practically

impossible that too while sitting in revision against the 2 impugned orders to decide its correctness and to call for entire original records and civil Court deposits registers. The remedy is in fact to left open if at all to adduce oral evidence in support of the civil Court deposit amounts as to who paid what amount with reference to the amounts reflected at the respective dates in the civil Court deposits right from the year 2002, by remanding the matters by setting aside the orders subject to payment of what is shown in the revision respondents calculation of due without prejudice to contest.

Having regard to the above and from the submission of the learned counsel for the revision petitioners and without prejudice to the contest of both sides (i). in C.R.P.No.5189 of 2016 as per the calculation of revision respondents, the revision petitioners shall pay within six (06) weeks from today of Rs.3,70,804/- stated due by end of October 2016 by 5th defendant and (ii). Also in C.R.P.No.5112 of 2016 from the calculation of what is stated due of Rs.2,01,016/- by end of October 2016 by 8th defendant. It is subject to such payments, the matters are remanded to lower Court by setting aside the impugned orders with a direction to permit the parties to adduce further evidence therein with reference to memos filed for deposits if any with the lower Court from original records with reference to civil Court deposits reflected in the civil Court deposits register entries, to exhibit in Court 'C' series if necessary the relevant pages Xerox copies by duly certifying as per original at the expense of the revision petitioners.

Accordingly and in the result, both the revisions are disposed of to the above extent and the right to participate arises only after payment of amount within six (06) weeks from today supra failing which the orders of the lower Court holds good.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 14.12.2016
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