

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.2224 of 2016

ORDER:

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Heard Sri C.Sai Vishnu for revision petitioner and Sri G.Venkat Reddy, counsel for respondents.

The 1st defendant in O.S.No.170 of 2011 on the file of II Additional Junior Civil Judge, Kurnool, is the revision petitioner.

The revision is directed against the order dated 21-03-2016 in I.A.No.523 of 2014. The 1st respondent/plaintiff filed I.A.No.523 of 2014 to return the chief affidavit and grant permission to file fresh chief affidavit in the place of affidavit already on record to meet the ends of justice. The revision petitioner opposed the prayer more particularly having regard to the alleged admissions, in the first affidavit and how the 1st respondent is trying to withdraw the admissions already made in the affidavit. Be that as it may, the trial court has formulated the following question for consideration :-

“Whether this petition is liable to be allowed?”

At the end, it is stated that having regard to the circumstances pleaded by 1st respondent/plaintiff, “I see no reason to disallow this petition at this stage. For better adjudication of the case on merits, I am inclined to allow this petition and in the interest of the justice.”

With the assistance of learned counsel appearing for parties, I have perused the plaint, written statement, affidavit and counter in I.A.No.523 of 2014.

Learned counsel appearing for 1st respondent fairly states that even the case pleaded by 1st respondent/plaintiff did not fall for

consideration before the trial court and at any rate, the point for consideration is not commensurate to the prayer in I.A.No.523 of 2014.

As there is mistake in the very consideration of application, the counsel agrees for setting aside the order impugned in the revision and remand the matter to the trial court for fresh disposal in accordance with law.

Prima facie, this court is of the view that consideration of interlocutory application by the trial judge does not satisfy the requirements of a speaking order.

Hence, the order impugned in the revision is set aside and the application is remanded to trial court for fresh disposal in accordance with law. The application on remand shall be disposed of within four weeks from the date of receipt of a copy of this order. While disposing of the instant revision, it shall not be understood that this court has expressed any view on the prayer of 1st respondent/plaintiff or opposition offered by revision petitioner. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

S. V. BHATT, J

Dt: 20-07-2016

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