

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.5148 of 2015

ORDER:

This Revision Petition under Article 227 of the Constitution of India is filed by the petitioner/defendant assailing the orders dated 03.11.2015 of the learned V Additional Senior Civil Judge, City Civil Court, Hyderabad passed in I.A.No.658 of 2015 in O.S.No.844 of 2013 filed for granting leave and to receive certain documents on file.

2. I have heard the submissions of learned Senior Counsel appearing for the petitioner/defendant. I have perused the material record including the petition and the affidavit filed in support of the Interlocutory Application No.658 of 2015. I have also perused the order impugned.

3. A perusal of the affidavit and the petition in the said Interlocutory Application would make it manifest that bald averments are made to receive the documents even without mentioning what are the documents to be received on file, after granting the necessary leave as sought for. However, at the hearing, the learned Senior Counsel appearing for the petitioner/defendant would submit that the documents that are sought to be produced are mentioned in the affidavit filed in lieu of examination in chief, which is already filed into the Court on 14.09.2015 and that therefore, the defect in not mentioning the details of the documents either in the affidavit or in the petition filed to receive documents is not fatal to the case of the petitioner.

4. Be that as it may, the petitioner ought to have mentioned the details of the documents in the affidavit and the petition filed with a request to receive the documents rather than mentioning the details of the same in the affidavit filed in lieu of examination in chief as the documents are not yet received on file by granting the necessary leave. The stage of mentioning of the details of the documents in the affidavit filed in lieu of examination in chief would arise

only after the leave is granted and the petition to receive the documents stands allowed and not otherwise. Therefore, in the well considered view of this Court, the trial Court cannot be faulted for dismissing the petition filed by the petitioner for receiving the documents on file. However, the trial Court had gone into merits of the matter as to whether or not leave should be granted for receiving the documents though the details of the documents are not mentioned either in the affidavit filed in support of the petition or in the petition list.

5. In the facts and circumstances, in the well considered view of this Court, this Revision Petition can be disposed of at the admission stage, to avoid any further delay, by giving liberty to the petitioner/defendant to file a fresh application supported by an affidavit with all details of the documents and seek leave of the Court to receive the said documents on file. Therefore, without going into the merits as to leave should be granted or not to the defendant to file the documents, the order impugned is set aside only for the purpose of giving an opportunity to the petitioner to file a fresh application and to enable the Court below to reconsider, on merits, the request of the defendant/petitioner in that regard.

6. Accordingly, the Civil Revision Petition is disposed of giving liberty to the petitioner/defendant to file a fresh application, supported by an affidavit with all necessary details, making a request to the trial Court to grant leave to file the stated documents and to receive the same on file. It is made clear that this Court did not consider the merits of the matter. Hence, it is needless to mention that in case such an application comes to be filed by the petitioner/defendant, the trial Court shall, after giving an opportunity of filing a counter to the plaintiff, dispose of the same in strict in accordance with the procedure established by law and on merits. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

M.SEETHARAMA MURTI, J

FEBRUARY 19, 2016

Note:
Furnish C.C. on 23.02.2016.
(B/o) YVL

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DATE: 19.02.2016

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