

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.3744 of 2015

ORDER:

The plaintiff in OS.No.73 of 2008 filed this civil revision petition, under Article 227 of the Constitution of India, having been aggrieved of the order dated 04.05.2015 of the learned Principal Junior Civil Judge, Bhongir, passed in IA.No.134 of 2015 in the aforesaid suit.

IA.No.134 of 2015 is filed under Section 151 of the Code of Civil Procedure, 1908, to correct the last suggestion in the deposition of PW1, Merugu Srinivas, Son of Malkaiah, by inserting the word 'not' in the said suggestion, which was not typewritten by the bench typist while typewriting the said sentence as dictated by the learned Presiding Officer, who recorded the deposition of the said witness.

I have heard the submissions of Sri P. Kiran, learned counsel appearing for the revision petitioner-plaintiff. The respondents-defendants, though served with the notices, did not enter appearance. I have perused the material record including the order impugned and the copy of the deposition of the witness, which is filed along with the material papers.

The plaintiff by filing the subject application made a request to the trial Court to correct the last suggestion in the deposition of the afore-stated witness by *inter alia* stating that while typewriting the deposition, the bench typist had omitted to type the word 'not' in the said suggestion though dictated correctly by the learned Presiding Officer. However, the trial Court refused to grant the said request. Therefore, the plaintiff is before this Court.

Learned counsel for the petitioner rightly points out that when the last few sentences of the deposition are read in harmony it is clear that all such sentences in the deposition are only suggestions given to the said witness one after the other and that the said suggestions are promptly denied by the witness. To emphasize the said aspect, it is apt to extract the last portion of the deposition, which reads as under: 'It is not true to say that abutting to the plot of defendant No.1, the plot of Gangidi Ravinder Reddy is situated and the same was sold by Ravinder Reddy to Defendant No.1

since the said plot is abutting to the plot of Defendant No.1. It is not true to say that I have not filed the alleged ordinary sale under which my father purchased 39 guntas and intentionally withhold as the real truth will come out. It is not true to say that my father has no land abutting to the road Bibinagar to Pochampally in sy.no.1023.' However, the last/ concluding sentence of the deposition reads as under: 'It is true that the Gift Deed is created for the purpose of the suit and defendant is in possession and enjoyment of the suit property'. Thus, in the last sentence, the word 'not' is not there. If the last portion of the deposition and the entire deposition is read harmoniously, it is evident that the word 'not' was by mistake not incorporated in the last suggestion and therefore it appears that the request of the plaintiff merits consideration. However, the learned counsel for the petitioner fairly submits that the learned Presiding Officer, who recorded the deposition, is now not presiding over the said Court and therefore the revision petition may be disposed of with appropriate directions.

In that view of the matter, the Civil Revision Petition is allowed and the order impugned is set aside. However, instead of directing the trial Court to correct the deposition of the witness, the trial Court is directed to read the last sentence of the deposition of PW1, Merugu Srinivas, as follows: - 'It is not true that the Gift Deed is created for the purpose of the suit and defendant is in possession and enjoyment of the suit property' while considering the said deposition and appreciating the evidence brought on record at the time of adjudication of the *lis*.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

09th December, 2016
Vjl