

THE HON'BLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION No. 1055 of 2016

ORDER:

This revision filed under Article 227 of the Constitution of India challenges the order dated 06.01.2016 passed by the Court of Principal Senior Civil Judge, Anantapur, in I.A.No.569 of 2015 in O.S.No.293 of 2012.

2. Heard Sri I. Venkata Prasad, learned counsel for the petitioner, and Smt. A. Vijaya Lakshmi, learned counsel for the respondent.

3. Perused the material available before the Court.

4. The petitioner herein instituted the said suit for recovery of amount. Resisting the said suit, the respondent herein filed written statement in the month of September, 2012. The respondent herein after a lapse of nearly three years from the date of filing of the written statement filed the present I.A.No.569 of 2015 under the provisions of Order VI Rule 17 of the Code of Civil Procedure, 1908 (for brevity, "CPC") praying for amendment of the written statement. Resisting the said application, petitioner herein filed a counter. The learned Senior Civil Judge by way of an order dated 06.01.2016 allowed the said application permitting amendment. The said order passed by the learned Senior Civil Judge is challenged in the present revision.

5. It is contended by the learned counsel for the petitioner that the order passed by the learned Senior Civil Judge is erroneous, contrary to law, and it is opposed to the object of the

provisions of the Order VI Rule 17 of CPC. It is the further submission of the learned counsel that the very basis, as stated in the affidavit filed in support of the application for filing the application, cannot be sustained. It is the further submission of the learned counsel that the reasons assigned by the learned Senior Civil Judge in the impugned order are unsustainable and untenable.

6. On the contrary, it is vehemently contended by the learned counsel for the defendant/respondent that there is no error nor there is any infirmity in the impugned order and, as such, the same is not amenable for any correction by this Court under Article 227 of the Constitution of India. It is the further submission of the learned counsel that since the respondent herein filed the present application before commencement of trial, the court below is perfectly justified in allowing the application.

7. The information available before this court manifestly discloses that the respondent herein filed the written statement as long back as in the year 2012. Now after lapse of three years, the respondent filed the present I.A., seeking amendment of the prayer.

8. A perusal of the affidavit filed in support of the present application vividly discloses that the only reason assigned by the respondent is that he filed the written statement with wrong pleadings and wrongly furnished instructions to his counsel at the time of preparation of the written statement.

9. In the considered opinion of this Court, the said reason assigned by the respondent in the supporting affidavit, by any stretch of imagination, cannot be construed as a valid reason for

maintaining an application under the provisions of Order VI Rule 17 CPC. A perusal of the questioned order reveals clearly that the said aspect missed the attention of the learned Judge while deciding the application.

10. For the aforesaid reasons, the Civil Revision Petition is allowed, setting aside the order dated 06.01.2016 passed in I.A.No.569 of 2015 in O.S.No.293 of 2012. Consequently, the said I.A. viz., I.A.No.569 of 2015 stands dismissed.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE A.V. SESA SAI

July 15, 2016
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