

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CIVIL REVISION PETITION Nos.5495 & 5534 of 2006

COMMON ORDER:

These two revisions are maintained against the orders of the I Additional Junior Civil Judge dated 18.09.2006 in I.A.Nos.788 & 789 of 2006 in O.S.No.270 of 2003, which are on the two applications filed by the sole plaintiff against the four defendants and the third party, K.Satyavathi, who is vendee or alienee or assignee as the case may be, either from

1st defendant or defendants 1 to 4 or some of them as the case may be, for originally not impleaded which came to know from the written statement contest of defendants, to implead as co-defendant to the suit sought by one petition and by the other petition sought to amend the plaint including the plaint schedule description with boundaries by correcting the names and the further amendment of the relief of prohibitory injunction simplicitor to declaration and further mandatory injunction to remove the so called wall constructed obstructing the right of way pending suit by alleged violation of the interim order in the temporary injunction application. It was on contest, the lower Court dismissed the two applications.

2) Heard and perused the material on record including the impugned orders of the lower Court.

3) A perusal of the orders of the lower Court is though not with sufficient reasons, from hearing the revisions at length of both sides, this Court felt that this is not a case to interfere by requiring its indulgence in sitting against the orders from the material on record, by invoking Article 227 of the Constitution of India but for by virtue of the provision, giving liberty to plaintiff to withdraw the suit and file fresh suit.

4) Accordingly, the revision is disposed of enabling the plaintiff to file application before the trial Court under Order XXIII C.P.C seeking permission to withdraw and the trial Court, by virtue of this order, accord permission after hearing the respondents, if any, for any costs if at all to award, so that the plaintiff can maintain a fresh suit for any efficacious relief and with any effective pleading. There shall be no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

28.07.2016

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