

HON'BLE SRI JUSTICE M.S.K.JAI SWAL

C.R.P.No.2116 of 2016

ORDER:-

This revision is filed against the Orders in I.A.No.724 of 2015 in O.S.No.56 of 2014 dated 26.02.2016 on the file of the Additional Senior Civil Judge at Gajuwaka, by and under which the petition filed by the defendants seeking permission to file the additional Written Statement was allowed.

The contention of the petitioners/plaintiffs is that the Court below ought not to have allowed the application and accepted the additional written statement since the same has been filed at the belated stage and with an intention to protract the litigation.

A perusal of the record shows that the petitioners/plaintiffs have filed the suit for injunction in respect of the plaint schedule property which comprises of 1800 Sq.Yds., of land bearing Door No.27-8-308 situated in Gajuwaka Municipality of Visakhapatnam District.

The claim of the petitioners/plaintiffs is that on 15.02.2014 and 23.02.2014 the respondents/defendants and their men have interfered with the possession of the plaintiffs and tried to remove the structures. Hence, the suit.

The respondents/defendants are own brothers. The first respondent/D.1 filed his Written Statement on 24.06.2014 denying the claim of the plaintiffs. On behalf of the 2nd respondent/D.2 memo was filed that he is adopting the written statement filed by the first respondent/D.1.

The present application is filed by R.2/D.2 for seeking leave of the Court to file additional written statement. The contention now that is raised by the second defendant that on the alleged dates of cause of action i.e., 15.02.2014 and 23.02.2014 the second defendant was not in India, he having gone of Hongkong on 22.01.2014 and returned only on 01.01.2015. He also produced documents in support of his contention that he was not in India when the alleged cause of action has taken place.

Learned Counsel appearing for the petitioners submits that not having taken this stand previously, the respondents/defendants cannot be allowed to take up the said plea at this stage.

A perusal of the proposed written statement that is filed goes to show that a factual aspect is sought to be brought on record which cannot be said to in any way affect the original pleadings. Learned trial Judge has considered all the aspects in proper perspective and allowed the application and the said Order does not suffer from any irregularity or illegality warranting any interference. There are no merits in the revision and the same is liable to be dismissed.

In the result, the Civil Revision Petition is dismissed. No costs.

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

Date: 11th November, 2016

smr



M.S.K.Jaiswal, J