

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.157 OF 2016

ORDER:

_____ This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the III Senior Civil Judge, City Civil Court, Hyderabad in I.A.No.400 of 2014 in O.S.No.402 of 2011 dated 07.11.2015. This petition in I.A.No.400 of 2014 was filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 (CPC) seeking permission of the Court to amend the written statement. The Court below, relying on the proviso to Order VI Rule 17 CPC which requires amendment of the pleadings to be allowed only if the Court comes to the conclusion that inspite of due diligence the applicant could not seek amendment earlier, observed that no material was placed by the petitioner to satisfy the due diligence requirement. It is on this ground that the Court below rejected the petitioner's application.

_____ The proviso to Order VI Rule 17 stipulates that no application for amendment of written statement shall be allowed after the trial has commenced unless the Court comes to conclusion that inspite of due diligence, the party could not have raised the matter before the commencement of trial. It is not in dispute that trial had already commenced and the matter was coming up for cross examination of P.W.1 when I.A.No.400 of 2014 was filed. The proviso to Order VI Rule 17 CPC is therefore attracted and as the petitioner could not show that their inability to file the application earlier was despite due diligence, the Court below has rightly rejected the application.

_____ The jurisdiction, which this Court exercises under Article 227 of the Constitution, is supervisory and save patent illegality, no interference is called for. The order of the Court below does not suffer from any such infirmity.

_____ The Civil Revision Petition fails and is, accordingly, dismissed. There shall be no orders as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

-

(RAMESH RANGANATHAN, J)

3rd June 2016

RRB