

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.3797 of 2015

ORDER:

In this civil revision petition under Article 227 of the Constitution of India by the petitioners/plaintiffs the challenge is to the order dated 6th July, 2015 of the learned Junior Civil Judge, Pargi of Ranga Reddy District, passed in I.A.No.111 of 2015 in O.S.No.7 of 2000 filed under Section 148 of the Code of Civil Procedure, 1908, (CPC) requesting to enhance the period of 14 days for carrying out the amendment and permit to amend the plaint and file neat copy of plaint in O.S.No.7 of 2000.

I have heard the submissions of the learned counsel for plaintiffs/petitioners (hereinafter referred to as 'plaintiffs') at the stage of admission. I have perused the material record.

The facts which are necessary to be stated as a preface to this order, in brief, are as follows:

The plaintiffs brought a suit for specific performance of an agreement of sale of the year 1993 said to have been executed by the 1st defendant/1st respondent. During the trial, since defendant No.10 died, the plaintiffs filed I.A.No.24 of 2011 under Order XXII Rule 4 of CPC requesting to implead respondents 11 to 13 therein as defendants 11 to 13 in the suit. The said application was allowed. However, according to the plaintiffs the amendment could not be carried out and the plaintiffs could not add the proposed defendants in the cause titles of the plaint and other pleadings within the period of 14 days as provided under Order VI Rule 18 of CPC. The plaintiffs being under the impression that the required amendment has to

be carried out within the said period filed the subject application for enlargement of time. The trial Court, having adverted to the provision of Order VI Rule 18 of CPC, wherein, it is stated that amendment should be carried out within 14 days, refused to extend the time and dismissed the application filed for extension of time for carrying out the amendment. Aggrieved thereof, the plaintiffs are before this Court.

I have bestowed my attention to the facts and I have given detailed and thoughtful consideration to the submissions. In view of the fact that the issue arising for consideration in this revision was the subject matter of the decision of this Court in **Muddada Appa Rao (died) v. M.Nagendra Prasada Rao**¹, this Court is of the considered view that the revision can be disposed of at the stage of admission. A copy of the said decision is placed on record.

The undisputed fact is that the amendment of cause titles to the plaint was not carried out by the plaintiffs even after the application for impleadment of LR. of the deceased defendant No.10 was allowed by the trial Court. The Court below as well as the plaintiffs were of the view that in view of the provision of Order VI Rule 18 CPC, the amendment ought to be carried out within 14 days and that for non-compliance of that requirement, the plaintiffs would be precluded from carrying out the amendment unless time is extended by the Court below. In the aforementioned decision this Court held that the order made under Order XXII Rules 3 and 4 of the Code is to be given effect to by recording the names in the cause titles (short and long) of the plaint/pleadings and that it might be done either by the party

¹ 2016 (5) ALD 14

who obtained the order or by the office of the Court and that such change in the cause titles to be made cannot be considered as an amendment of the plaint within the meaning of Order VI Rule 17 of the Code since the substitution of legal representatives of a deceased party is made to give effect to the order under Order XXII Rule 3 or 4 of the Code, and hence, Order VI Rule 18 of the Code, or for that matter, Order VI Rule 17 of the Code has no application to such situation. Therefore, this Court also held that the amendment of cause titles should have been done within 14 days as held in the orders of the Court below, is not correct. Further, in **Sital Prasad Saxena (died) v. Union of India**², it was observed that the Rules of procedure under Order XXII of the Code are designed to advance justice and should be so interpreted as not to make them penal statutes for punishing erring parties.

Since the application for impleadment of LRs of defendant No.10 has already been allowed, the revision petitioners/plaintiffs cannot be denied an opportunity to amend the cause titles and prosecute the suit merely on the ground of delay or for infraction of the Rule of procedure. Therefore, this Court finds that the order impugned in this revision is not defensible and justifiable and hence, calls for interference. Therefore, in terms of aforestated decision of this Court in **Muddada Appa Rao** (1st supra) and for reasons alike as were mentioned therein, the revision petition deserves to be allowed.

In the result, the revision petition is accordingly allowed and the order impugned is set aside. The trial Court is now directed to permit the plaintiffs

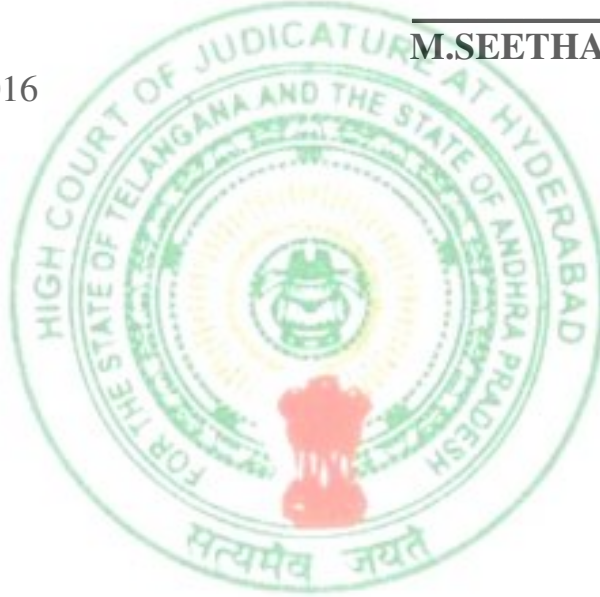
² (1985) 1 SCC 163

to carry out the amendments as per the orders earlier made in I.A.No.24 of 2011 and permit them to file the amended neat copy of the plaint and then issue notices to the impleaded parties and then permit the defendants already on record and the impleaded parties, if they put-in appearance, to file additional written statements and written statements respectively, if they so wish, and then decide the suit in accordance with the procedure established by law. No costs.

Pending miscellaneous applications, if any, shall stand closed.

2nd November 2016

ajr



M.SEETHARAMA MURTI, J