

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NOS.705 OF 2016

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ORDER:

The petitioner herein is the plaintiff in O.S. No.1118 of 2013, and the petitioner in I.A. No.518 of 2015 in O.S. No.1118 of 2013. He filed an application, under Order 6 Rule 17, to amend the plaint after trial had commenced. The only averment in the affidavit filed in support of the I.A, with regards the due diligence test prescribed under the proviso to Order 6 Rule 17 CPC, was that he was unable to give proper instructions to prepare the plaint in view of the mental agony he suffered because of the severe threat he faced from the defendant in the suit. In the order, under revision, the Court below recorded its satisfaction that the reasons furnished by the petitioner did not satisfy the due diligence requirement.

Sri V.Ch. Naidu, Learned Counsel for the petitioner, would however draw attention of this Court to the order of Court below wherein it is recorded that an *ex parte* ad interim injunction order was passed in I.A. No.509 of 2013; the matter was heard partly on 04.06.2014; subsequently, upon an understanding between the parties, the Court had undertaken the task of taking up trial and P.W-1 was cross-examined at length on 13.08.2014; later on, for various reasons, the matter had undergone several adjournments; and, ultimately, I.A. No.518 of 2015 came to be filed on O.S. No.539 of 2013 being transferred to the Court for joint trial along with O.S. No.1118 of 2013.

Learned Counsel would submit that, instead of deciding the I.A. for temporary injunction, the Court below should be directed to decide the suit itself, more so as the parties had arrived at the understanding earlier that the suit itself should be decided.

The suit relates to the year 2013. It would therefore be wholly inappropriate for this Court, in proceedings under Article 227 of the Constitution of India, to determine the manner in which the Court below should arrange its board or to direct it to dispose of the suit of the year 2013, when suits of earlier years are still pending on its board. I see no reason,

therefore, to accede to any such request.

The Civil Revision Petition, as filed, is wholly devoid of merits and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, J

Date: 07.04.2016.

MRKR