

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No. 1111 of 2016

Order:

The petitioner herein is the first defendant in OS No.22 of 2009 on the file of the Senior Civil Judge, Wanaparthi, Mahaboobnagar District. The said suit was filed by the first respondent herein for specific performance of the agreement of sale dated 23.08.2007. A written statement was filed on 22.12.2011. Before filing the said written statement it appears that another agreement was executed by the defendants in favour of the petitioner on 06.03.2010 which necessitated the amendment of the pleadings. Consequent to the amendment of the plaint, the written statement was also amended. Now the present application is filed by the first defendant seeking incorporation of paras 4(A) and 4(B) in the additional written statement. In support of the application in the affidavit filed by the petitioner no reason was assigned seeking the amendment of the additional written statement. When the trial Court dismissed the application, by an order dated 08.10.2015, the present Civil Revision Petition is filed.

2. The trial Court noticed that the present counsel for the defendants came on record before the commencement of the trial. He also cross-examined the plaintiff at length and the evidence of the plaintiff was closed. When the suit is coming up for the evidence of the defendants, the present application was filed. Ultimately, the application was dismissed with the following observations.

“.....Even assuming for a moment that the present counsel not at all looked into the additional written statement and not at all discussed with the petitioner/D1 after he came on record for D1, but he shall look into the pleadings even for the purpose of cross-examination of the plaintiff's witnesses. Each of the plaintiff's witnesses is examined in cross at length and it cannot be said that the counsel conducted such lengthy cross examination of plaintiff's witnesses without looking into the pleadings of his case i.e., the pleadings of the written statement and additional written statement etc. So that the reason stated by the petitioner that they came to know “now” about not mentioning of the proposed amendment in the additional written statement by the counsel for the petitioner is un-

acceptable reason and it shows that the petitioner has no due diligence in proceeding of his case and when it is found that the petitioner has no diligence, the question of permitting him to amend the pleadings does not arise. Accordingly I find no merits in this petition and is liable to be dismissed.

In the result the petition is dismissed. But no order as to costs.”

3. A perusal of the order of the lower Court does not warrant any interference from this Court, as the reasons assigned by the trial Court are perfectly valid in the facts and circumstances of the case.

4. Accordingly, the Civil Revision Petition is dismissed at the admission stage. However, in the circumstances, no costs.

5. As a sequel thereto, the miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.
Date: 01.04.2016
Nsr

RAMALINGESWARA RAO, J