

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION Nos. 3895 & 3918 OF 2016

COMMON ORDER:

These two Civil Revision Petitions are filed by the petitioners, under Article 227 of the Constitution of India, challenging the order dated 7.6.2016 in Tr.O.P.No. 568 of 2016 passed by the Chief Judge, City Civil Courts, Hyderabad, whereby it was observed that the allegations made against the trial Court Judge are false but only to drag on the proceedings in the trial Court, as the Presiding Officer of trial Court is proceeding with the trial of both the suits in accordance with the procedure established by law.

2. The petitioners filed a petition, under Section 24 of CPC, seeking transfer of O.S.No. 1034 of 2014, pending on the file of XVII Senior Civil Judge, City Civil Court, Hyderabad, to the Court of the I Senior Civil Judge, City Civil Court, Hyderabad or any other Senior Civil Judge's Court on the ground that the petitioners filed O.S.No. 930 of 2014 on the file of IX Junior Civil Judge, City Civil Court, Hyderabad, which was subsequently transferred to the Court of XVII Senior Civil Judge, City Civil Court, Hyderabad and renumbered as O.S.No. 1118 of 2015; respondents, as a counter blast, filed O.S.No. 1034 of 2014 on the file of XVII Senior Civil Judge, City Civil Court, Hyderabad, for eviction of the petitioners; and in order to avoid conflicting judgments in O.S.Nos. 930 of 2014 and 1034 of 2014, petitioners filed Tr. O.P.No. 1270 of 2015 and the same was allowed

by order dated 27.10.2015 withdrawing O.S.No. 930 of 2014 from the Court of IX Junior Civil Judge, City Civil Court, Hyderabad and transferred the same to XVII Additional Senior Civil Judge, City Civil Court, Hyderabad for proceeding with trial in both the suits in accordance with the procedure established by law.

3. The detailed contention of the petitioners is that the trial Court without complying the direction in Tr.O.P.No. 1270 of 2015; without correcting the erroneous issues; without framing preliminary issues; and without giving reasonable opportunity to contest both the suits on merits, simply kept aside the interlocutory applications filed in the cases, which is totally illegal and the judge is pre-detrimental and pre-opined to decree the suit in O.S.No. 1034 of 2014 without conducting trial in O.S.No. 1118 of 2015 and, therefore, filed Transfer O.P.

4. The only contention raised before this Court is that the trial Court did not afford reasonable opportunity to file additional affidavit i.e., to file comprehensive affidavit, under Order 18 Rule 4 CPC, when suits are clubbed and tried together; though they filed interlocutory application seeking permission to file an additional affidavit, which is pending before the trial Court, the trial Court did not register the interlocutory application for the reasons best known; the trial Court without deciding the interlocutory application, is proceeding with trial; and, thereby, their valuable rights are affected and prayed to allow the petition by setting aside the orders passed in Tr.O.P.No. 568 of 2016.

5. Learned counsel appearing for the petitioners, during hearing, brought to the notice of this Court, that O.S.No. 1118 of 2015 was clubbed with O.S.No. 1034 of 2014 as directed by the Court and produced the diary proceedings in O.S.No. 1118 of 2015. On 11.12.2015 a memo was filed for recording evidence in O.S.No. 1034 of 2014. O.S.No. 1034 of 2014 was clubbed with the other suit and proceeding with the matter. The allegation made against the Presiding Officer of the Court that he is pre-detrimental and pre-opined to decree the suit is not based on any material but, however, if any application is filed seeking permission to file an additional affidavit, under Order 18 Rule 4(2) of CPC, the trial Court is supposed to decide the application in accordance with law.

6. The Chief Judge, City Civil Court, having found no grounds concluded that the petition was filed only to drag on the matter before the trial Court for the reasons best known to the petitioner and dismissed the petition. Even after re-considering the facts on record, I find no ground to reverse the orders passed by the Court below. However, liberty is given to the petitioners to move the trial Court by an appropriate application for an appropriate relief subject to maintainability and, on filing of such application, the trial Court is directed to decide the same in accordance with law.

7. In view of my foregoing discussion, I find no ground to allow these Civil Revision Petitions while exercising jurisdiction under

Article 227 of the Constitution of India since the jurisdiction is limited which is in the nature of supervision.

8. Accordingly, these Civil Revision Petitions are dismissed giving liberty to the petitioners to move the trial Court for an appropriate relief subject to the maintainability. There shall be no order as to costs.

9. As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date: 13.10.2016
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