

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.4283 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is directed against an intermediary order, dated 26.07.2017, of the learned XXV Additional Chief Judge, City Civil Court, Hyderabad, which was passed while recording the evidence of PW1.

2. I have heard the submissions of Sri Deepak Sancheti, learned counsel for the Revision petitioners/defendants, and of Sri T.Rajanikanth Reddy, learned counsel for the respondents/plaintiffs. I have perused the material record.

3. The grievance of the Revision petitioners/defendants is only with regard to the marking of certain documents, which are referred to in the impugned order as document Nos.27 to 29, 36, 37, 40, 44 and 54. The defendants contended before the trial Court that the said documents being tendered by the 1st plaintiff/PW1 for being marked cannot be permitted to be marked, as the said documents relate to a period subsequent to the filing of the suit and there is no pleading in the plaint with regard to the said documents. In reply to the said objection, the learned counsel for the respondents herein/plaintiffs submitted before the trial Court that since the said documents are subsequent to the suit, there is naturally no pleading about the subsequent events in the plaint, which was earlier instituted, and that the said documents are being filed only to bring to the notice of the Court the

subsequent developments that took place after the institution of the suit. Overruling the objection of the learned counsel for the Revision petitioners/defendants and considering the plea of the learned counsel for the plaintiffs, the trial Court accorded permission for marking of the afore-stated documents *inter alia* observing that simply because the said documents are of a period subsequent to the institution of the suit, the petitioners/defendants cannot object for marking the same. Aggrieved thereof, the petitioners/defendants are before this Court.

4. The learned counsel for the Revision petitioners/defendants would submit that the documents are of a period subsequent to the suit and they are not supported by the pleadings of the plaintiffs and that a party cannot be permitted to travel beyond the pleadings and hence, the said documents cannot be permitted to be marked. He would also submit that any evidence on record in the absence of pleading cannot be considered and looked into.

5. Per contra, the learned counsel for the respondents/plaintiffs would submit that since the documents relate to the period subsequent to the suit, naturally there is no pleading in the plaint with regard to the said documents and that the documents are filed only to prove the subsequent events that took place after the institution of the suit. He would also submit that the Court is always competent to take the subsequent events into consideration while adjudicating the *lis*.

6. The learned counsel for the Revision Petitioners/defendants placed reliance on the decision of the Supreme Court in Ram

Saran Gupta Vs. Bishun Narain Inter College¹ in support of the proposition that any evidence on record in the absence of the pleading cannot be considered and that it is settled law that no party should be permitted to travel beyond its pleadings and that all necessary material facts should be pleaded by the party in support of the case set up by it and that the object and purpose of the pleading is to enable the adversary to know the case it has to meet and therefore, the plaintiffs should plead the purpose and object of the documents that are being produced.

7. In the well considered view of this Court, as rightly contended by the learned counsel for the Revision Petitioners/defendants, in the absence of any pleading, evidence, if any, produced by the party, cannot be considered. However, it is to be noted that the trial Court took into consideration the fact that the said documents relate to the period subsequent to the suit and that therefore, the plaintiff cannot be expected to plead about the said documents when the suit was instituted, as, by that time, the events had not taken place and the documents being subsequent were not available at that point of time for being mentioned in the plaint. Further, mere filing of the documents does not amount to proof and permission accorded to exhibit the documents in question does not dispense with the proof of the contents of the said documents. As per the law of pleadings, the parties are required to plead the material facts; and, the evidence need not be pleaded. As per the ratio in the decision of the Supreme Court no party should be permitted to travel beyond its pleadings and that

¹ AIR 1987 SC 1242

all necessary material facts should be pleaded by the party. In the case on hand, according to the plaintiffs, they had already stated in the plaint all the material facts on which their claim is based and also all the material facts constituting the cause of action. Further, at the time of recording the evidence and marking of the documents as exhibits, the Courts will not evaluate and weigh the evidence. The evaluation of evidence and the aspect as to how much weight shall be attached to the evidence (either oral or documentary) will arise at a later stage when the Court adjudicates the *lis*, that is, when the Court answers the issues settled for determination in the suit, after full fledged trial. In that view of the matter, this Court is of the opinion that the revision assailing the order insofar as marking of the afore-stated document Nos.27 to 29, 36, 37, 40, 44 and 54, is devoid of merit and is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. It is made clear that the Revision Petitioners/defendants are at liberty to canvass that the evidence in respect of the aforesaid documents cannot be considered in the absence of pleading and it is for the trial Court to consider the merits of the said contention at the appropriate stage having regard to the pleadings, facts and circumstances of the case and the other evidence that may be brought on record during the course of trial. It is also made clear that the probative value of the evidence with regard to the documents, which are disputed, shall be considered by the Court below at the appropriate stage, i.e., at the stage of adjudication of the issues settled for determination in the suit.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

29th August, 2017
Bvv

M.Seetharama Murthi, J

